

# At-a-Glance Information— Appeal Tips

## Eligibility

With one exception, to appeal your school's official cohort default rate for federal student loans, **your school must be subject to sanctions.**

- ◆ The exception: A school with an FY 1995 official cohort default rate of 20.0 percent or greater may submit an appeal on the basis of allegations of improper loan servicing and collection of its FFEL Program loans.

Sanctions are specific restrictions on your school's participation in Title IV federal student financial aid programs.

## Basis of Appeal

There are three types of appeals:

- ◆ **erroneous data,**
- ◆ **improper loan servicing and collection, and**
- ◆ **exceptional mitigating circumstances.**

The eligibility checklists following these tips can help your school determine if it qualifies to submit any of these appeals.

## Adjustment Request

To submit an adjustment request, your school does NOT have to be subject to sanctions. Rather, your school may submit an adjustment request if, during the draft data review process, a guaranty agency or Direct Loan servicer **agreed** to make a correction to your school's *draft* backup data BUT the correction does not appear in your school's *official* backup data.

An adjustment REQUEST is not an APPEAL.

## Timing

**Timing is critical.** If your school fails to meet regulatory deadlines, the U.S. Department of Education (the Department) will NOT review the appeal.

- ◆ When a number of days is given (for example, “within 30 calendar days”), it means the information must be SENT within the stated time period. If the submission due date falls on a weekend or a federal holiday, a school may send the information no later than the next business day.



## Proof of Delivery

The Department recommends that your school send all appeal correspondence return receipt requested. This will be useful to your school if it is asked to authenticate the timeliness of its appeal.

## Courtesy Copies

Whenever your school sends correspondence to a guaranty agency or Direct Loan servicer, simultaneously, it should send a courtesy copy (cc) to the Department at the address on page 34.

## Direct Loans

Your school may NOT appeal Direct Loan Program loans on the basis of improper loan servicing and collection.

## Withdrawing an Appeal

If your school decides to withdraw an appeal, it should notify the Department, in writing, and send a courtesy copy (cc) to the relevant guaranty agencies and/or Direct Loan servicer.

## Final Decision

Appealing your school's official cohort default rate to the Department is the only administrative review available to your school. The Department's decision on your school's appeal is final.

# At-a-Glance Information— Eligibility Checklists



## Erroneous Data Appeal Eligibility Checklist

To be eligible to appeal its official cohort default rate on the basis of erroneous data, your school must meet ALL of the following criteria:

- ☐ Your school is subject to sanctions—
  - ☐ initial FFEL Program/Direct Loan Program loss
  - OR
  - ☐ extended FFEL Program/Direct Loan Program loss
  - OR
  - ☐ possible action to limit, suspend, or terminate (LS&T) eligibility to participate in all Title IV student financial assistance programs
- ☐ Your school believes that its official cohort default rate is inaccurate because of—
  - ☐ disputed data from the draft data review process
  - AND/OR
  - ☐ incorrect new data
- ☐ Your school's appeal, if it is successful, results in a recalculation reducing its official cohort default rate below the sanction level. (Your school's appeal may be on the basis of erroneous data or on the basis of a combination of erroneous data AND improper loan servicing.)
- ☐ Your school has NOT previously appealed the official cohort default rate at issue on the basis of erroneous data

Disputed data and incorrect new data are explained beginning on page 42.



## Improper Loan Servicing and Collection Appeal Eligibility Checklist

To be eligible to appeal its official cohort default rate on the basis of improper loan servicing and collection, your school must meet ALL of the following criteria:

- ☐ Your school's official cohort default rate is equal to or greater than 20.0 percent
- ☐ After reviewing records from guaranty agencies, your school believes that defaults on certain student loans were due to improper loan servicing as described in 34 CFR § 668.17(h) (viii)
- ☐ Your school has NOT previously appealed the official cohort default rate at issue on the basis of improper loan servicing and collection



## Exceptional Mitigating Circumstances Appeal on the Basis of Participation Rate Index Eligibility Checklist

To be eligible to appeal on the basis of its participation rate index, your school must meet the following criteria:

- ☐ Your school is subject to either of these sanctions—
  - ☐ initial FFEL Program/Direct Loan Program loss
  - OR
  - ☐ extended FFEL Program/Direct Loan Program loss
- ☐ Your school's participation rate index is .0375 (3.75 percent) or less as described in 34 CFR § 668.17(c)(1)(ii)(A)
- ☐ Your school's FY 1995 official cohort default rate is below 40.1 percent



## Exceptional Mitigating Circumstances Appeal on the Basis of Economically Disadvantaged and Placement Rates Eligibility Checklist

These appeal criteria are only for non-degree-granting schools.

To be eligible to appeal on the basis of its students' economically disadvantaged rate and placement rate, your school must meet the following criteria:

- ☐ Your school is subject to either of these sanctions—
  - ☐ initial FFEL Program/Direct Loan Program loss
  - OR
  - ☐ extended FFEL Program/Direct Loan Program loss
- ☐ Your school is a **non-degree-granting** school that—
  - ☐ enrolls 70.0 percent or more of its students from disadvantaged economic backgrounds as described in 34 CFR § 668.17(c) (1) (ii) (B)
  - AND
  - ☐ can demonstrate that 50.0 percent or more of its students were successfully placed as described in 34 CFR § 668.17(c) (1) (ii) (B) (2)



## Exceptional Mitigating Circumstances Appeal on the Basis of Economically Disadvantaged and Completion Rates Eligibility Checklist

To be eligible to appeal on the basis of its students' economically disadvantaged rate and completion rate, your school must meet the following criteria:

- ☐ Your school is subject to either of these sanctions—
  - ☐ initial FFEL Program/Direct Loan Program loss
  - OR
  - ☐ extended FFEL Program/Direct Loan Program loss
- ☐ Your school is a **degree-granting** school that—
  - ☐ enrolls 70.0 percent or more of its students from disadvantaged economic backgrounds as described in 34 CFR § 668.17(c)(1)(ii)(B)
  - AND
  - ☐ can demonstrate that 70.0 percent or more of its students completed their programs as defined in 34 CFR § 668.17(c)(1)(ii)(B)(1)

These appeal criteria are only for degree-granting schools.





# Requesting an Adjustment

## QUALIFYING

Any school may request that the Department adjust its FY 1995 official cohort default rate if:

- (1) it submitted a challenge on its cohort default rate backup data to a guaranty agency and/or Direct Loan servicer during the draft data review process,

AND

- (2) the guaranty agency and/or Direct Loan servicer agreed to make changes to the backup data,

BUT

- (3) the changes are not reflected in the school's FY 1995 official backup data.

A school does NOT have to be subject to sanctions to request an adjustment.

## What is the purpose of an adjustment request?

An adjustment request assures that a school receives a change to its cohort default rate that was agreed to during the draft data review process.

## Does my school have to be subject to sanctions to request an adjustment?

A school does NOT have to be subject to sanctions to request an adjustment, but it must meet the three eligibility requirements listed above.



**Q:** Can my school submit an adjustment request because incorrect new data appear in the official backup data?

**A:** No, an adjustment request is only for challenged draft data where a change was agreed to. Your school might, however, be eligible to file an erroneous data appeal on the basis of the new data. (See page 39.)

## Is my school eligible to request an adjustment to its official cohort default rate?

A school may file an adjustment request if, during the FY 1995 *draft* data review process, a guaranty agency and/or Direct Loan servicer agreed to make a change to the school's backup data AND the change was not made in the school's *official* FY 1995 backup data.

An adjustment REQUEST is not the same as an erroneous data APPEAL.

**An adjustment request is NOT an erroneous data appeal.** (See page 39 for how and when to submit an erroneous data appeal.)



It is possible that a school might submit both an adjustment request and an erroneous data appeal. If a school is submitting both, the two have different deadlines, and they **MUST** be submitted separately.

## TIMING

### What are the time frame and procedures for submitting an adjustment request?

**Timing is critical.** Within **10 working days** of receiving its official cohort default rate backup data, your school:

- ◆ should compare the guaranty agency and/or Direct Loan servicer response from the draft data review process to its official backup data,

AND

- ◆ if it discovers that a change a guaranty agency and/or Direct Loan servicer agreed to make during the draft data review process was NOT made,

THEN

- ◆ it may submit an adjustment request to the Department.



Your school's adjustment request to the Department must be sent within **10 working days** of receiving its official cohort default rate backup data.



If your school does not meet this **10-working-day** deadline, the Department will NOT review the adjustment request.

## SUBMITTING

### How should my school submit an adjustment request to the Department?

The Department recommends that your school submit an adjustment request in a single, tabbed binder, and mail it return receipt requested. Here is what each adjustment request must include:

The section behind Tab 1 contains:

Tab 1

- ◆ A letter on your school's letterhead stating—
  - ❖ your school's OPE ID number,
  - ❖ that your school is submitting an adjustment request,

**AND**

  - ❖ the fiscal year to which the request applies.
- ◆ The letter should be signed by your school's President/CEO/Owner, followed by a signature block providing the signer's name and job title.
- ◆ The letter should indicate that a courtesy copy (cc) has been sent to the relevant guaranty agency and/or Direct Loan servicer.  
(See the sample letter for **FY 1995 Adjustment Request** located at the end of this section on page 35.)

The section behind Tab 2 contains:

Tab 2

- ◆ a list of all borrowers who qualify for an adjustment, listed on an agency-by-agency or servicer-by-servicer basis.  
(Use spreadsheet **FY 1995 Loans Requiring Adjustment** located at the end of this section on page 37, or its equivalent.)

The section behind Tab 3 contains:

Tab 3

- ◆ a copy (or copies) of the original letter(s) from the guaranty agency and/or Direct Loan servicer indicating that it agreed to make changes during the draft data review process.



**Q:** May my school submit its adjustment request with its erroneous data appeal and/or improper loan servicing appeal?

**A:** No. Your school's adjustment request must be submitted separately and within 10 working days of your school receiving its official backup data.

A school does NOT need to submit its backup data to the Department.

The Department accepts deliveries from commercial couriers and/or hand deliveries on Monday through Friday, 8:00 a.m. to 4:30 p.m. (Eastern Time).



The Department recommends sending all correspondence return receipt requested.

**If sent by commercial overnight mail/courier delivery, send your school's adjustment request to:**

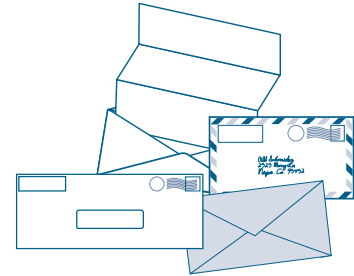


U.S. Department of Education  
Default Management Division  
ATTN: Adjustment Requests  
ROB-3, Room 5125  
7th and D Streets, SW  
Washington, DC 20202

For entry into the building, call  
202/708-6048.

**If sent by U.S. Postal Service, send your school's adjustment request to:**

U.S. Department of Education  
Default Management Division  
ATTN: Adjustment Requests  
ROB-3, Room 5125  
600 Independence Avenue, SW  
Washington, DC 20202-5353



The Department will review only the relevant information submitted in the adjustment request and will not consider information submitted after the **10-working-day** deadline. The Department will send the school and each involved guaranty agency and/or Direct Loan servicer written notification of its decision. **The decision is final.**



## Our Town A&M University

1212 Tiger Lane  
Any Town, Any State 00000-0000  
(000) 000-0000

November 6, 1997

U.S. Department of Education  
Default Management Division  
ATTN: Adjustment Requests  
ROB-3, Room 5125  
600 Independence Avenue, SW  
Washington, DC 20202-5353

### Sample Letter

**Subject: FY 1995 Adjustment Request**

To Whom It May Concern:

Our Town A&M University, OPE ID 001100, wishes to request an adjustment to its FY 1995 official cohort default rate.

Thank you for your consideration.

Sincerely,

*Rain E. Forrest*

Rain E. Forrest, President  
Our Town A&M University

Enclosures

cc: Direct Loan Servicer  
State Guaranty Agency

# Requesting an Adjustment

## How to fill out FY 1995 Loans Requiring Adjustment spreadsheet

On one spreadsheet, record all student loans where your school is requesting an adjustment from the U.S. Department of Education (the Department) using a spreadsheet software application such as Lotus 1-2-3, Supercalc, or Excel. The resulting spreadsheet is sent only to the Department.



Fill out a separate spreadsheet for each guaranty agency or Direct Loan servicer.

The spreadsheet width should be on one page in a landscape (horizontal) layout. A sample spreadsheet is on the opposite page.

**Header:**

Enter **FY 1995 Loans Requiring Adjustment** in the center of the header area. In the left-hand area, enter your school's name and your school's OPE ID number.

**Footer:**

Enter the date in the left side of the footer area. Set up automatic pagination in the right side of the footer area so that the specific page number and the total number of pages show on each page, for example: page 1 of 10 pages.

On Row 1, enter **exactly** the same column names in **exactly** the same order as listed on the sample spreadsheet. (Use a row height of 60.)

On Row 2 and below, include the following data in the header for

each loan requiring adjustment. (Use a row height of 15.)

**Column 1:**

Enter the borrower's Social Security number (SSN) using hyphens to separate the numbers (example: 000-88-000). If more than one SSN is listed, sort by numerical order when ready to print the spreadsheet.

**Column 2:**

Enter the borrower's name.

**Column 3:**

Use FFEL/Stafford (Federal Family Education Loan/Stafford), DL/Stafford (Direct Loan/Stafford), or SLS (Supplemental Loans for Students) to identify type of loan. Enter the loan type.

**Column 4:**

Enter MM/DD/YY (month/day/year) to identify the date the data error was acknowledged by the guaranty agency or Direct Loan servicer during the draft data review process.

**Column 5:**

Enter the number code of the guaranty agency (found in Appendix A) or Direct Loan servicer (found in Appendix B).







# Erroneous Data Appeal

## QUALIFYING

If, on the basis of its FY 1995 official cohort default rate, your school is subject to the loss of FFEL Program and/or Direct Loan Program eligibility or subject to possible action to limit, suspend, or terminate participation in all Title IV federal student financial aid programs, it may file an erroneous data appeal<sup>1</sup> if:

- ❖ there are **disputed data** remaining from your school's challenges during the draft data review process

AND/OR

- ❖ there are **incorrect new data** appearing in your school's official backup data.

Disputed data challenges and incorrect new data challenges are explained in detail later in this section.

A school must be subject to sanctions to submit an appeal on the basis of erroneous data.

## What is an erroneous data appeal?

An erroneous data appeal is a challenge submitted to the Department alleging that a school's official cohort default rate is inaccurate because of incorrect data.<sup>2</sup>



All appeals submitted to the Department must be complete, accurate, documented, and timely.

1. HEA 435(a)(2)(A)(i) and 34 CFR § 668.17(c)(1)  
 2. 34 CFR § 668.17(c)(1)

“Outside sources” that a school will want to review include, but are not limited to, records of lenders, students, guaranty agencies, the Direct Loan servicer, or other schools where former students enrolled.

## What are erroneous data?

Erroneous data are various types of loan information provided in your school’s official cohort default rate backup data that do not match your school’s records and information from outside sources reviewed by your school and that your school believes are incorrect.

Examples of erroneous data would be if, in reconciling official backup data against its attendance records, your school discovers that:

- ❖ some students are not reported correctly in the official cohort default rate calculation

AND/OR

- ❖ some students are omitted entirely from the calculation.

Erroneous data may be “disputed data” and/or “incorrect new data,” both of which are discussed in detail later in this section.

## Is an adjustment request a type of erroneous data appeal?

No, an adjustment request is NOT an erroneous data appeal.

Any school may request that the Department adjust its FY 1995 official cohort default rate if:

- (1) it submitted a challenge to a guaranty agency or Direct Loan servicer on erroneous data during the **draft** data review process,

AND

- (2) the guaranty agency or Direct Loan servicer agreed to make the change to the backup data,

BUT

- (3) the data change is not reflected in the school’s FY 1995 **official** backup data.

(See page 31 for details on when and how to submit an adjustment request.)

Remember, an erroneous data APPEAL is not the same as an adjustment REQUEST. They must be submitted separately.

**Note:**

A school might qualify to submit both an erroneous data appeal and an adjustment request. If a school is submitting both, the two have different deadlines, and they must be submitted separately.

## Does my school have to be subject to sanctions to submit an erroneous data appeal?

Yes, only schools that are subject to sanctions may submit an erroneous data appeal. These sanctions are:

- ❖ **initial loss of FFEL Program and/or Direct Loan Program eligibility.** This results from FY 1993, FY 1994, and FY 1995 official cohort default rates that are equal to or greater than 25.0 percent.<sup>3</sup>

OR

- ❖ **extended loss of FFEL Program and/or Direct Loan Program eligibility.** This occurs when a school lost FFEL Program and/or Direct Loan Program eligibility prior to the release of the FY 1995 official cohort default rate due to three consecutive cohort default rates equal to or greater than 25.0 percent, AND all subsequent cohort default rates have been equal to or greater than 25.0 percent.<sup>4</sup>

OR

- ❖ **possible action to limit, suspend, or terminate (LS&T) eligibility to participate in all Title IV federal student financial aid programs.** This occurs when a school's FY 1995 official cohort default rate is greater than 40.0 percent.<sup>5</sup>

---

3. 34 CFR § 668.17(b)

4. Id.

5. 34 CFR § 668.17(a)(2)

## Is my school eligible to file an erroneous data appeal?

Your school may file an erroneous data appeal if:

- (1) it is subject to sanctions,

AND

- (2) it believes that **disputed data** or **new data** used in calculating its rate are incorrect,

AND

- (3) recalculating the rate using corrected data would produce an official cohort default rate lower than the applicable sanction threshold.



The official cohort default rate can be reduced below the sanction threshold either by an erroneous data appeal or by combining an erroneous data appeal and an improper loan servicing appeal.

AND

- (4) it has not previously appealed the official cohort default rate at issue on the basis of erroneous data.

## What are “disputed data” and “incorrect new data”?

Disputed data and/or incorrect new data are the two criteria by which sanctioned schools may appeal allegations of erroneous data.

- ❖ **Appealing disputed data from the draft data review process—**  
When your school challenges data in the draft data review process, a guaranty agency and/or Direct Loan servicer does not always agree that there is an error. Your school may appeal to the Department on the basis of disputed data if a guaranty agency and/or Direct Loan servicer did not agree with the errors your school alleged during the draft data review process.

Information on how to prepare and submit an erroneous data appeal is provided later in this section.

- ❖ **Appealing on the basis of incorrect new data**—Because the National Student Loan Data System (NSLDS) is updated regularly with new information from several sources, your school's *official* backup data may differ from the *draft* backup data it received earlier. Your school may appeal to the Department on the basis of incorrect new data if:

- ❖ your school discovers that its backup data have changed since the draft data review process,

AND

- ❖ your school determines that the changes do not result from its draft data review process challenges,

AND

- ❖ your school believes the changes are incorrect.



If the official data remain the same as the draft data, and your school did NOT challenge the draft data during the draft data review process, it may NOT appeal the data at this stage.<sup>6</sup> If these data issues are appealed to the Department, they will NOT be reviewed.

A school may appeal a specific fiscal year cohort default rate only once on the basis of erroneous data. The same fiscal year cohort default rate, however, may be appealed on the basis of improper loan servicing and collection.

The checklist on the next page summarizes the eligibility criteria for an erroneous data appeal. Review the checklist to determine your school's eligibility to appeal on the basis of erroneous data.



**Q:** Can incorrect new data be considered in an erroneous data appeal?

**A:** Yes, incorrect new data can be the basis of an erroneous data appeal; it cannot, however, be the basis of an adjustment request.

6. 34 CFR § 668.17(j) (7)



## Erroneous Data Appeal Eligibility Checklist

To be eligible to appeal its official cohort default rate on the basis of erroneous data, your school must meet ALL of the following criteria:

- ☐ Your school is subject to sanctions—
  - ☐ initial FFEL Program/Direct Loan Program loss
  - OR
  - ☐ extended FFEL Program/Direct Loan Program loss
  - OR
  - ☐ possible action to limit, suspend, or terminate (LS&T) eligibility to participate in all Title IV student financial assistance programs
- ☐ Your school believes that its official cohort default rate is inaccurate because of—
  - ☐ disputed data from the draft data review process
  - AND/OR
  - ☐ incorrect new data
- ☐ Your school's appeal, if it is successful, results in a recalculation reducing its official cohort default rate below the sanction level. (Your school's appeal may be on the basis of erroneous data or on the basis of a combination of erroneous data AND improper loan servicing.)
- ☐ Your school has NOT previously appealed the official cohort default rate at issue on the basis of erroneous data

Disputed data and incorrect new data are explained beginning on page 42.

## How can a successful erroneous data appeal affect my school's official cohort default rate?

If, as the result of an erroneous data appeal, the Department determines that incorrect data were used in calculating your school's official cohort default rate, the Department will recalculate the rate using the corrected data. (The official cohort default rate calculation is explained on page 7.) This may lower, raise, or not affect your school's official cohort default rate.

## How do adding and subtracting loans from the cohort default rate calculation affect my school's official cohort default rate?

Are there other loans for the same borrower that are <b>CORRECTLY</b> included in the CDR calculation?	If your school wins its appeal for...	then the following change to the cohort default rate results:
If the borrower has <b>no other loans</b> in the CDR calculation	adding a <b>defaulted</b> loan	+N/D
	adding a <b>non-defaulted</b> loan	+D
	subtracting a <b>defaulted</b> loan	-N/D
	subtracting a <b>non-defaulted</b> loan	-D
If the borrower already has <b>only non-defaulted loan(s)</b> in the CDR calculation (D)	adding a <b>defaulted</b> loan	+N
	adding a <b>non-defaulted</b> loan	no effect
	subtracting a <b>defaulted</b> loan	-N
	subtracting a <b>non-defaulted</b> loan	no effect
If the borrower already has <b>defaulted loan(s)</b> in the CDR calculation (N/D)	adding a <b>defaulted</b> loan	no effect
	adding a <b>non-defaulted</b> loan	no effect
	subtracting a <b>defaulted</b> loan	no effect
	subtracting a <b>non-defaulted</b> loan	no effect

Key:

CDR = Cohort default rate  
 N = Numerator  
 D = Denominator  
 N/D = Numerator and Denominator

## Which cohort default rates may my school appeal?

The sanctions your school is subject to determine which cohort default rates your school may appeal on the basis of erroneous data.

- ◆ If your school is subject to **initial loss of FFEL Program and/or Direct Loan Program eligibility**, it may appeal any or all of the three most recent official cohort default rates on which the loss of eligibility is based—as long as it has not previously appealed that fiscal year’s official cohort default rate calculation on the basis of erroneous data. This year, your school may appeal its FY 1993, FY 1994, and FY 1995 cohort default rates.



**Q:** If my school is appealing FY 1993, FY 1994, and FY 1995 official cohort default rates on the basis of erroneous data, should it mail three separate appeals to the Department?

**A:** No, all erroneous data appeals must be submitted in the same mailing.

- ◆ If your school is subject to **extended loss of FFEL Program and/or Direct Loan Program eligibility**, it may appeal only the most recent year’s (FY 1995’s) official cohort default rate.
- ◆ If your school is subject to **possible action to LS&T its participation** in all Title IV federal student financial aid programs due to its FY 1995 official cohort default rate, but it is not subject to initial loss of FFEL Program and/or Direct Loan Program participation, it may appeal only the FY 1995 rate.

A school subject to extended loss of FFEL Program and/or Direct Loan Program eligibility may appeal only its FY 1995 official cohort default rate.



**Note:**

If your school is NOT subject to sanctions, it is not eligible to file an erroneous data appeal with the Department and, if filed, the Department will NOT review it. Your school may, however, be eligible to file a rate adjustment request. (See page 31 for details.)



The following table summarizes the official cohort default rates that your school may appeal on the basis of erroneous data.

Official Cohort Rates That May Be Appealed on the Basis of Erroneous Data	
If your school is subject to...	Your school may...
No sanctions	NOT appeal
Initial FFEL/Direct Loan loss	appeal FY 1993,* FY 1994,* and FY 1995
Extended FFEL/Direct Loan loss	appeal FY 1995
LS&T only	appeal FY 1995

\* Provided that your school has not previously appealed the rate on the basis of erroneous data.

## What role does a guaranty agency or Direct Loan servicer have in my school's erroneous data appeal to the Department?

A guaranty agency and/or Direct Loan servicer is required to respond to your school's timely request for verification of error involving student loans that it guaranteed/serviced and that were included in your school's official cohort default rate calculation within **15 working days** of receiving your school's request.<sup>7</sup>

If the guaranty agency and/or Direct Loan servicer doesn't respond within 15 working days, advise the Department, in writing, of the delay.



A delayed response from a guaranty agency or Direct Loan servicer does not jeopardize your school's appeal rights.<sup>8</sup>



**Q:** If my school is subject to both initial loss of FFEL Program/ Direct Loan Program eligibility AND LS&T, which official cohort default rates may it appeal?

**A:** It may appeal its FY 1993, FY 1994, and FY 1995 official cohort default rates, as long as it has not previously appealed that year's official cohort default rate calculation on the basis of erroneous data.

If a guaranty agency's and/or Direct Loan servicer's response is late (longer than 15 working days), notify the Department, in writing, that there is a delay.

7. 34 CFR §682.401(b)(15)

8. 34 CFR §668.17(c)(8)

In its response to your school's letter, the guaranty agency and/or Direct Loan servicer will address your school's allegations.

There are a number of reasons why a guaranty agency and/or Direct Loan servicer might not agree with your school's allegations of error. For example, your school might have:

- ❖ made only general allegations about the backup data and/or the official cohort default rate calculation,
- ❖ failed to notify the guaranty agency and/or Direct Loan servicer of a student's change in status in a timely manner,
- ❖ failed to provide supporting documentation for an allegation,

OR

- ❖ failed to send allegations of error to the guaranty agency and/or Direct Loan servicer within the **10-working-day** time frame required by regulations.<sup>9</sup>

## TIMING

### What are the time frames and procedures for submitting an erroneous data appeal?

**Timing is critical** when appealing an official cohort default rate on the basis of erroneous data. The required regulatory time frames are as follows:

- ❖ Within **10 working days** of receiving its official cohort default rate and official backup data, your school must—
  - ❖ review the backup data,
  - ❖ submit a request letter (see sample letter **FY 1995 Request for Verification of Error in Official Backup Data** located at the end of this section on page 59) to the respective guaranty agencies and/or Direct Loan servicer,<sup>10</sup>



9. 34 CFR § 668.17(i)

10. 34 CFR § 668.17(c)(8)(i)

- ❖ submit a list of all alleged errors (use spreadsheet **FY 19\_ \_ Request for Verification of Error in Official Backup Data** located at the end of this section on page 63, or its equivalent), along with copies of the relevant pages of the backup data and supporting documentation, to the respective guaranty agencies and/or Direct Loan servicer,<sup>11</sup>

AND

- ❖ simultaneously send the Department copies of all of these letters and your school's list(s) of alleged errors.<sup>12</sup>
- ❖ A guaranty agency and/or Direct Loan servicer has **15 working days** to respond to your school's allegations of error.<sup>13</sup>
  - ❖ If a guaranty agency and/or Direct Loan servicer takes more than **15 working days** to respond, the school's eligibility to appeal is not jeopardized.<sup>14</sup> The reason: The deadline for a school to submit its appeal to the Department is determined by the date the school receives its final response from all guaranty agencies and/or the Direct Loan servicer.
- ❖ Within **5 working days** of receiving the final guaranty agency and/or Direct Loan servicer response to alleged errors, your school must do **one** of the following:

- (1) **Notify the Department that your school has chosen not to appeal (see page 159 on how to withdraw an appeal).**

OR

- (2) **Notify the Department that your school will simultaneously submit its erroneous data appeal with its improper loan servicing appeal.**<sup>15</sup>

OR

- (3) **Send the Department your school's erroneous data appeal.**<sup>16</sup>

A school does NOT need to submit its backup data or supporting documentation to the Department.

Important: At this point, schools have 5 days to act.

11. 34 CFR § 668.17(c)(8)(i)

12. 34 CFR § 668.17(c)(8)(ii)

13. 34 CFR § 682.401(b)(15)

14. 34 CFR § 668.17(c)(8)

15. 34 CFR § 668.17(h)(3)(iv)

16. 34 CFR § 668.17(c)(1)



## Erroneous Data Appeal Time Frames

**When your school receives its official backup data, it must:**

send all allegations of error to the appropriate guaranty agencies/  
Direct Loan servicer and copies of the allegations to the Department.

**These must be sent  
within  
10 working days**

**When a guaranty agency and/or Direct Loan servicer receives your  
school's request for verification of error...**

**The guaranty agency  
and/or  
Direct Loan servicer  
must respond within  
15 working days**

**When your school receives all of the guaranty agencies/Direct Loan  
servicer responses to its requests for verification of error, it must:**

- (1) notify the Department that it has chosen to withdraw from the erroneous data appeal process  
OR
- (2) notify the Department that its erroneous data appeal will be filed simultaneously with its improper loan servicing appeal  
OR
- (3) submit to the Department an erroneous data appeal.

**This action must be  
taken within  
5 working days**

If your school is submitting both an erroneous data appeal and an improper loan servicing appeal, it has the option of submitting both appeals at the same time, in the same mailing.<sup>17</sup> In this case, both appeals are due by the later of:

- ❖ within **5 working days** from receiving all responses to the school's list of alleged errors from all guaranty agencies and/or the Direct Loan servicer

OR

- ❖ within **30 calendar days** from receiving all the loan servicing records.



**If your school fails to meet any of these regulatory time frames, the Department will NOT review the appeal.**

The Department will send the school and each involved guaranty agency and/or Direct Loan servicer written notification of its decision. **The appeal decision is final.**

## SUBMITTING

### How do I prepare and submit an erroneous data appeal to the Department?

**Step 1. Compare the official backup data to the list of challenges your school submitted during the draft data review process.**

- ❖ Identify any **disputed data** remaining from the draft data review process. These are loan data that a guaranty agency or Direct Loan servicer did NOT agree to change during the draft data review process that your school still believes are incorrect.

It is NOT the responsibility of a guaranty agency and/or Direct Loan Servicer to send a school's erroneous data appeal to the Department.

<sup>17</sup> 34 CFR § 668.17(h)(3)(iv)

“Outside sources” that a school will want to review include, but are not limited to, records of lenders, students, guaranty agencies, the Direct Loan servicer, or other schools where former students enrolled.

- ❖ Identify any **incorrect new data** appearing in your school’s official backup data. When reviewing new data against your school’s records and information from outside sources, you might wish to confirm:
  - ❖ accuracy of the date of last attendance;
  - ❖ accuracy of the date the loan entered repayment;
  - ❖ accuracy of the loan default date;
  - ❖ that there are no missing, duplicated, canceled, or discharged loans;
  - ❖ that there is no student whose loan entered repayment in the cohort year, according to your school’s records and outside sources, who was omitted from the backup data;

AND

- ❖ that the same student loan was not reported in two different cohort years.



These are some, but not all, errors that might be identified.

**Step 2. Compile a list of alleged errors for each appropriate guaranty agency and/or Direct Loan servicer.**

- ❖ Record all alleged errors using the spreadsheet **FY 19\_\_ Request for Verification of Error in Official Backup Data** (located at the end of this section on page 63, or its equivalent). Complete a separate spreadsheet for each guaranty agency or Direct Loan servicer where your school alleges data errors.

**Step 3. Initiate an erroneous data appeal.**

- (A) Within **10 working days**<sup>18</sup> of receiving your school’s official backup data, mail the following to the guaranty agency and/or Direct Loan servicer:



The Department recommends sending all correspondence return receipt requested.

18. 34 CFR § 668.17(c)(8)(i)

- ❖ A letter on your school's letterhead with—
  - your school's OPE ID number;
  - the fiscal year to which the request applies;
  - a statement indicating your school's request for verification of error;
  - a signature by your school's President/CEO/Owner, followed by a signature block providing the signer's name and job title;

AND

- a notation that a courtesy copy (cc) will be sent to the Department at the same time.

(See sample letter **FY 19\_\_ Request for Verification of Error in Official Backup Data** located at the end of this section on page 59.)

- ❖ The spreadsheet completed in Step 2.
- ❖ A copy of relevant backup data.
- ❖ Relevant supporting documentation.

AND

(B) ALSO within **10 working days**<sup>19</sup> of receiving your school's official backup data, mail the following to the Department:

- ❖ A copy of each and every request for verification of error sent to a guaranty agency or Direct Loan servicer.

AND

- ❖ A copy of each and every completed spreadsheet sent to each and every guaranty agency and/or Direct Loan servicer.

Your school does NOT need to send backup data or supporting documentation to the Department.

19. 34 CFR § 668.17(c)(8)(ii)



**Note:**

If your school does not meet this **10-working-day** time frame, the guaranty agency and/or Direct Loan servicer will not respond to your letter, and the Department will not review your list of alleged errors. This means your school will **NOT** be eligible to continue with the erroneous data appeal process.

**Step 4. Review the response from a guaranty agency and/or Direct Loan servicer and decide how to proceed.**

- ❖ Review the responses from ALL guaranty agencies and/or the Direct Loan servicer. Decide if your school wants to:
  - ❖ withdraw from
  - OR
  - ❖ continue with the erroneous data appeal process.

**Step 5. Tell the Department whether your school is withdrawing from the appeal process or continuing with the appeal process.**

- ❖ If your school wants to **withdraw** its erroneous data appeal, within **5 working days** of receiving ALL guaranty agency and/or Direct Loan servicer responses to your school's allegations of error, notify the Department that your school is withdrawing its erroneous data appeal. (See page 159 on how to withdraw an appeal.)

**OR**

- ❖ If your school wants to **continue** with the erroneous data appeal process, within **5 working days** of receiving ALL guaranty agency and/or Direct Loan servicer responses either:



**Q:** My school initiated erroneous data appeals with three guaranty agencies, but it only wants to appeal the responses of two guaranty agencies to the Department. How does my school do this?

**A:** Your school's appeal includes all allegations of error that your school chooses to appeal—in this case, responses from two guaranty agencies—in a single binder.



- ❖ notify the Department that your school simultaneously will submit its erroneous data appeal with its loan servicing appeal.<sup>20</sup> (See sample letter **Notification of Intent to Simultaneously Submit FY 19\_\_ Erroneous Data Appeal and FY 19\_\_ Loan Servicing Appeal** located at the end of this section on page 60.)

OR

- ❖ appeal the findings of ALL guaranty agencies and/or the Direct Loan servicer to the Department in an erroneous data appeal.<sup>21</sup> (See Step 6 for details.)

#### **Step 6. Submit the erroneous data appeal to the Department.**

- ❖ The Department recommends that your school submit its properly completed erroneous data appeal relating to all guaranty agencies and/or the Direct Loan servicer for all relevant fiscal year(s) to the Department in a single, tabbed binder, and mail it return receipt requested. On the following page is what an appeal must include:

A properly completed erroneous data appeal submitted to the Department must include ALL allegations of error a school is appealing for ALL relevant guaranty agencies and/or the Direct Loan servicer for ALL relevant fiscal years.

20. 34 CFR § 668.17(h)(3)(iv)

21. 34 CFR § 668.17(c)(1)

Schools do NOT need to submit their backup data reports to the Department.

The section behind Tab 1 contains:

Tab 1

- ❖ A letter on your school's letterhead with—
  - ❖ your school's OPE ID number;
  - ❖ a statement indicating that your school is submitting an erroneous data appeal;
  - ❖ the fiscal year(s) to which the appeal applies;
- AND
- ❖ a certification sentence that indicates that the information provided in the appeal, under penalty of perjury, is true and correct.
  - The letter must be signed by your school's President/CEO/Owner, followed by a signature block providing the signer's name and job title.
- ❖ The letter must indicate that a courtesy copy (cc) was sent to the relevant guaranty agency and/or Direct Loan servicer.

(See sample letter **Appeal on FY 19\_\_ Allegations of Erroneous Data in Official Backup Data**, located at the end of this section on page 61.)

The section behind Tab 2 contains:

Tab 2

- ❖ copies of all relevant correspondence, including:
  - (1) The guaranty agency and/or Direct Loan servicer response(s) to your school's list of alleged data errors in the *official* cohort default rate.
- AND/OR
- (2) The guaranty agency and/or Direct Loan servicer response(s) to your school's list of alleged errors in the *draft* data. (This is not required when all allegations of error are on the basis of incorrect new data.)

The section behind Tab 3 contains:

Tab 3

- ❖ a list of your school's alleged data errors in the *official* cohort default rate relating to ALL relevant guaranty agencies and/or Direct Loan servicer for ALL relevant fiscal years.
- (Use spreadsheet **FY 19\_\_ Appeal on Allegations of Erroneous Data in Official Backup Data**, located at the end of this section on page 65, or its equivalent.)

The section behind Tab 4 contains:

Tab 4

- ❖ documentation to support your school's list of alleged errors.

**If sent by commercial overnight mail/courier delivery, send your school's erroneous data appeal to:**



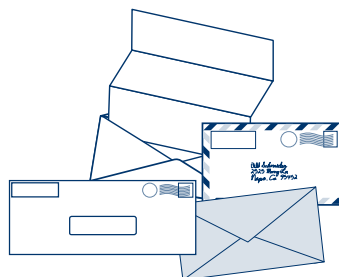
U.S. Department of Education  
Default Management Division  
ATTN: Erroneous Data Appeals  
ROB-3, Room 5125  
7th and D Streets, SW  
Washington, DC 20202

For entry into the building, call  
202/708-6048

The Department accepts deliveries from commercial couriers and/or hand deliveries on Monday through Friday, 8:00 a.m. to 4:30 p.m. (Eastern Time).

**If sent by U.S. Postal Service, send your school's erroneous data appeal to:**

U.S. Department of Education  
Default Management Division  
ATTN: Erroneous Data Appeals  
ROB-3, Room 5125  
600 Independence Avenue, SW  
Washington, DC 20202-5353



The Department recommends sending all correspondence return receipt requested.

The Department will review only the information submitted in the erroneous data appeal and will not consider information submitted after the regulatory deadlines. The Department will send the school and each involved guaranty agency and/or Direct Loan servicer written notification of its decision. **The decision is final.**





## Our Town A&M University

1212 Tiger Lane  
Any Town, Any State 00000-0000  
(000) 000-0000

November 6, 1997

### Sample Letter

State Guaranty Agency  
ATTN: Compliance Officer  
1010 Joppa Lane, Suite 200  
Any Town, Any State 00000-0000

**Subject: FY 1995 Request for Verification of Error in Official Backup Data**

To Whom It May Concern:

Our Town A&M University, OPE ID 001100, is requesting verification of errors in its official backup data for FY 1995.

Sincerely,

*Rain E. Forrest*

Rain E. Forrest, President  
Our Town A&M University

Enclosure

cc: U.S. Department of Education



## Our Town A&M University

1212 Tiger Lane  
Any Town, Any State 00000-0000  
(000) 000-0000

December 5, 1997

### Sample Letter

U.S. Department of Education  
Default Management Division  
ATTN: Joint Appeals  
ROB-3, Room 5125  
600 Independence Avenue, SW  
Washington, DC 20202-5353

**Subject: Notification of Intent to Simultaneously Submit FY 19\_\_  
Erroneous Data Appeal and FY 19\_\_ Loan Servicing Appeal**

To Whom It May Concern:

Our Town A&M University, OPE ID 001100, will be submitting its FY 1995 erroneous data appeal and FY 1995 loan servicing appeal simultaneously in accordance with 34 CFR § 668.17(h)(3)(iv).

Thank you for your consideration.

Sincerely,

*Rain E. Forrest*

---

Rain E. Forrest, President  
Our Town A&M University



## Our Town A&M University

1212 Tiger Lane  
Any Town, Any State 00000-0000  
(000) 000-0000

December 5, 1997

### Sample Letter

U.S. Department of Education  
Default Management Division  
ATTN: Erroneous Data Appeals  
ROB-3, Room 5125  
600 Independence Avenue, SW  
Washington, DC 20202-5353

**Subject: Appeal on FY 19\_\_ Allegations of Erroneous Data in Official Backup Data**

To Whom It May Concern:

Our Town A&M University, OPE ID 001100, is submitting its appeal on FY 19\_\_ allegations of erroneous data in its official cohort default rate.

I, the undersigned, certify under penalty of perjury, that all information submitted in support of the erroneous data appeal is true and correct.

Sincerely,

*Rain E. Forrest*

Rain E. Forrest, President  
Our Town A&M University

Enclosures

cc: State Guaranty Agency

# Gathering Information for an Erroneous Data Appeal

## How to fill out FY 19\_\_ Request for Verification of Error in Official Backup Data spreadsheet

Record all loans being appealed to the U.S. Department of Education (the Department) using a spreadsheet software application such as Lotus 1-2-3, Supercalc, or Excel. The resulting spreadsheet is sent to the relevant guaranty agency and/or Direct Loan servicer.



**Fill out a separate spreadsheet for each guaranty agency or Direct Loan servicer.**

The spreadsheet width should be on one page in a landscape (horizontal) layout. A sample spreadsheet is on the opposite page.

### Header:

**Enter FY 19\_\_ Request for Verification of Error in Official Backup Data** in the center of the header area. In the left-hand area, enter your school's name and your school's OPE ID number.

### Footer:

Enter the date the appeal was prepared in the left side of the footer area. Set up automatic pagination in the right side of the footer area so that the specific page number and the total number of pages show on each page (example: page 1 of 10 pages).

On Row 1, enter **exactly** the same column names in **exactly** the same order as listed on the sample spreadsheet. (Use a row height of 60.)

On Row 2 and below, include the following data in the header for each alleged error. (Use a row height of 15.)

### Column 1:

Enter the borrower's Social Security number (SSN) using hyphens to separate the numbers (example: 000-88-000). If more than one SSN is listed, sort by numerical order when ready to print the spreadsheet.

### Column 2:

Enter the borrower's name.

### Column 3:

Enter Disputed (Disputed Data) or New (New Data) to identify if errors are alleged on the basis of unresolved data from the draft data review process or incorrect new data.

### Column 4:

Use FFEL/Stafford (Federal Family Education Loan/Stafford), DL/Stafford (Direct Loan/Stafford), or SLS (Supplemental Loans for Students) to identify type of loan. Enter the loan type.

### Column 5:

Use X to identify whether an SLS repayment needs to be linked to a FFEL/Stafford repayment date. If linkage is not applicable, leave blank.

### Column 6:

Enter MM/DD/YY (month, day, and year) to identify the BCD (beginning class date) of the loan period.

### Column 7:

Enter MM/DD/YY to identify the ECD (ending class date) of the loan period.

### Column 8:

Enter MM/DD/YY to identify the LGD (loan guaranty date).

### Column 9:

Enter the **earlier date** of the borrower's MM/DD/YY of the LDA (last day of attendance) or the LTH (less than half time) date according to your school's records and outside sources.

### Column 10:

Enter MM/DD/YY or MM/YY to identify the DER (date the loan entered repayment) according to your school's records and outside sources.

### Column 11:

Enter MM/DD/YY or MM/YY to identify the CPD (claim paid date), DD (default date), or ICRD (Income Contingent Repayment date) according to your school's records and outside sources. Enter N/A if the student did not default.

### Column 12:

Enter the fiscal year(s) to which your school would like to see this information applied.

### Column 13:

Enter N (numerator), D (denominator), or N/D (numerator and denominator), accompanied by a plus or minus sign (such as +D or -D) to show how your school believes the information will affect its official CDR (cohort default rate) calculation.



NOTE: This is a sample spreadsheet.  
(See instructions.)

**FY 19\_\_**  
**Request for Verification of Error**  
**in Official Backup Data**

[illegible]

Page \_\_\_\_\_ of \_\_\_\_\_ pages

# Appealing Erroneous Data

## How to fill out FY 19\_\_ Appeal on Allegations of Erroneous Data spreadsheet

Record all loans being appealed to the U.S. Department of Education (the Department) using a spreadsheet software application such as Lotus 1-2-3, Supercalc, or Excel. The resulting spreadsheet is sent to the Department.



**Fill out a separate spreadsheet for each guaranty agency or Direct Loan servicer.**

The spreadsheet width should be on one page in a landscape (horizontal) layout. A sample spreadsheet is on the opposite page.

### Header:

Enter **FY 19\_\_ Appeal on Allegations of Erroneous Data in Official Backup Data** in the center of the header area.

In the left-hand area, enter your school's name, your school's OPE ID number, and the name of the guaranty agency or Direct Loan servicer.

### Footer:

Enter the date the appeal was prepared in the left side of the footer area. Set up automatic pagination in the right side of the footer area so that the specific page number and the total number of pages show on each page (example: page 1 of 10 pages).

On Row 1, enter **exactly** the same column names in **exactly** the same order as listed on the sample spreadsheet. (Use a row height of 60.)

On Row 2 and below, include the following data in the header for each loan where there is an alleged error. (Use a row height of 15.)

### Column 1:

Enter the borrower's Social Security number (SSN) using hyphens to separate the numbers (example: 000-88-000). If more than one SSN is listed, sort by numerical order when ready to print the spreadsheet.

### Column 2:

Enter the borrower's name.

### Column 3:

Enter Disputed (Disputed Data) or New (New Data) to identify if errors are alleged on the basis of unresolved data from the draft data review process or incorrect new data.

### Column 4:

Use FFEL/Stafford (Federal Family Education Loan/Stafford), DL/Stafford (Direct Loan/Stafford), or SLS (Supplemental Loans for Students) to identify type of loan. Enter the loan type.

### Column 5:

Use X to identify whether an SLS repayment needs to be linked to a FFEL/Stafford repayment date. If linkage is not applicable, leave blank.

### Column 6:

Enter MM/DD/YY (month, day, and year) to identify the BCD (beginning class date) of the loan period.

### Column 7:

Enter MM/DD/YY to identify the ECD (ending class date) of the loan period.

### Column 8:

Enter MM/DD/YY to identify the LGD (loan guaranty date).

### Column 9:

Enter the **earlier** date of the borrower's MM/DD/YY of the LDA (last day of attendance) or the LTH (less than half time) date according to your school's records and outside sources.

### Column 10:

Enter MM/DD/YY or MM/YY to identify the DER (date the loan entered repayment) according to your school's records and outside sources.

### Column 11:

Enter the MM/DD/YY or MM/YY to identify the CPD (claim paid date), DD (default date), or ICRD (Income Contingent Repayment date) according to your school's records and outside sources. Enter N/A if the student did not default.

### Column 12:

Enter the fiscal year(s) to which your school would like to see this information applied.

### Column 13:

Enter N (numerator), D (denominator), or N/D (numerator and denominator), accompanied by a plus or minus sign (such as +D or -D) to show how your school believes the information will affect its official CDR (cohort default rate) calculation.

School Name  
OPE ID Number  
Guaranty Agency or  
Direct Loan Servicer Name

## FY 19\_\_ Appeal on Allegations of Erroneous Data in Official Backup Data

[illegible]

[send to U.S. Department of Education]

MM/DD/YY

Page \_\_\_\_ of \_\_\_\_ pages



# Improper Loan Servicing and Collection Appeal

## QUALIFYING

If your school's FY 1995 official cohort default rate is equal to or greater than 20.0 percent AND it believes that one or more defaulted FFEL Program loans included in its official cohort default rate calculation did not receive loan servicing activities specified in 34 CFR § 668.17(h), your school may be eligible to file an appeal alleging improper loan servicing and collection.<sup>1</sup>

A school does NOT have to be subject to sanctions to submit an appeal on the basis of improper loan servicing.

## What is an improper loan servicing and collection appeal?

An improper loan servicing and collection appeal is a challenge submitted to the Department alleging that a school's official cohort default rate is inaccurate because one or more defaulted FFEL Program loans did not include the loan servicing activities specified in 34 CFR § 668.17(h).

The shortened term "improper loan servicing" is often used to refer to "improper loan servicing and collection" for the remainder of this section and throughout this guide.



**An improper loan servicing appeal may not be filed on Direct Loans.**

1. HEA Section 435(a)(3) and 34 CFR § 668.17(h)

## What is improper loan servicing?

A student loan default is considered to have been due to improper loan servicing<sup>2</sup> if:

- ❖ the borrower never made a payment

AND

- ❖ the school can document that the lender failed to perform one or more of the following activities:
  - (1) send at least one letter (other than the final demand letter) urging the borrower or endorser to make payments on the loan (if the lender was required to send such letters);
  - (2) attempt at least one telephone call to the borrower or endorser (if such attempts were required);
  - (3) submit a request for pre-claims assistance to the guaranty agency (if such a request was required);
  - (4) send a final demand letter to the borrower (if required);

AND/OR

- (5) submit a certification (or other evidence) that skip tracing was performed (if required).



**Note:**

ONLY the errors listed here are accepted as the basis of an improper loan servicing appeal.

## What is involved in skip tracing?

Skip tracing is required when, using the borrower's address of record, the lender receives returned mail indicating that the address for the borrower is incorrect.

- ❖ The lender either:
  - ❖ must certify that skip tracing was performed

OR



**Q:** Must skip tracing take place within a certain time period?

**A:** No, there is no time frame for skip tracing.

2. 34 CFR § 668.17(h) (3) (viii)

- ❖ must perform at least one of the following—
  - ✓ attempt to contact the endorser,
  - ✓ attempt to contact the borrower's relatives,
  - ✓ attempt to contact the borrower's references,
  - ✓ attempt to contact the borrower, endorser, or references using telephone directory assistance,
  - ✓ attempt to contact any individual and any entities in the borrower's loan file,
- OR
- ✓ perform any other normal skip tracing activity.
- ❖ Skip tracing is NOT required if the lender receives the returned mail after 151 days of the borrower becoming delinquent or if the lender does not have a record of the borrower's correct telephone number.

## Does my school have to be subject to sanctions to submit an improper loan servicing appeal?

No, your school does not have to be subject to sanctions, however, it must have a FY 1995 official cohort default rate that is equal to or greater than 20.0 percent.<sup>3</sup>

## Is my school eligible to file an improper loan servicing appeal?

A school may file an improper loan servicing appeal if it can demonstrate that there was improper loan servicing as defined in 34 CFR § 668.17(h) AND its FY 1995 official cohort default rate is equal to or greater than 20.0 percent, which would include those schools subject to the following sanctions:

- ❖ **initial loss of FFEL Program and/or Direct Loan Program eligibility.** This results from FY 1993, FY 1994, and FY 1995 official cohort default rates that are equal to or greater than 25.0 percent.<sup>4</sup>

3. 34 CFR § 668.17(h)

4. 34 CFR § 668.17(b)

Remember, a school does NOT have to be subject to sanctions to file an improper loan servicing appeal.

OR

- ❖ **extended loss of FFEL Program and/or Direct Loan Program eligibility.** This results when a school lost FFEL Program and/or Direct Loan Program eligibility prior to the release of the FY 1995 official cohort default rates due to three consecutive official cohort default rates equal to or greater than 25.0 percent AND all subsequent official cohort default rates have been equal to or greater than 25.0 percent.<sup>5</sup>

OR

- ❖ **possible action to limit, suspend, or terminate (LS&T) all Title IV federal student financial aid program eligibility.** This occurs when the school's FY 1995 official cohort default rate is greater than 40.0 percent.<sup>6</sup>

A school may appeal a specific fiscal year cohort default rate only once on the basis of improper loan servicing. The same fiscal year default rate, however, may be appealed on the basis of erroneous data.

The checklist on the opposite page summarizes the criteria for an improper loan servicing appeal. Review the checklist to determine if your school can appeal on the basis of improper loan servicing and collection.

---

5. 34 CFR § 668.17(b)

6. 34 CFR § 668.17(a)(2)





## Improper Loan Servicing and Collection Appeal Eligibility Checklist

To be eligible to appeal its official cohort default rate on the basis of improper loan servicing and collection, your school must meet ALL of the following criteria:

- ☐ Your school's official cohort default rate is equal to or greater than 20.0 percent
- ☐ After reviewing records from guaranty agencies, your school believes that defaults on certain student loans were due to improper loan servicing as described in 34 CFR § 68.17(h) (viii)
- ☐ Your school has NOT previously appealed the official cohort default rate at issue on the basis of improper loan servicing and collection

### How can a successful improper loan servicing appeal affect my school's official cohort default rate?

If, as a result of an improper loan servicing appeal, the Department determines that a loan (or loans) should be removed from your school's official cohort default rate calculation, the Department removes the improperly serviced loan (or loans) **from the numerator and the denominator** of your school's official cohort default rate calculation and recalculates the rate using the corrected data. Doing so generally lowers your school's official cohort default rate. (The official cohort default rate calculation is explained beginning on page 5.)

## Which cohort default rates may my school appeal?

The sanctions your school is subject to determine which cohort default rates your school may appeal on the basis of improper loan servicing.

- ◆ If your school is **NOT subject to sanctions**, and has an FY 1995 official cohort default rate equal to or greater than 20.0 percent, it may **ONLY** appeal its FY 1995 official cohort default rate on the grounds that improperly serviced loans were used in the calculation.
- ◆ If your school is subject to **initial loss of FFEL and/or Direct Loan eligibility**, it may appeal any or all of the three most recent official cohort default rates on which the loss would be based—as long as it has not previously challenged that fiscal year's official cohort default rate on the basis of improper loan servicing. This year your school may appeal its FY 1993, FY 1994, and/or FY 1995 cohort default rates if all three rates equal or exceed 25.0 percent.
- ◆ If your school is subject to **extended loss of FFEL Program and/or Direct Loan Program eligibility**, it may appeal **ONLY** the most recent year's (FY 1995's) official cohort default rate.
- ◆ If your school is subject to **possible action to LS&T its participation** in all Title IV federal student financial aid programs due to its FY 1995 official cohort default rate, but it is **NOT** subject to initial loss of FFEL Program and/or Direct Loan Program participation, it may appeal **ONLY** the FY 1995 rate.

A school subject to extended loss of FFEL Program and/or Direct Loan Program eligibility may appeal **ONLY** its FY 1995 official cohort rate.



**Q:** Can a school subject to loss of Direct Loan Program eligibility appeal to the Department on the basis of improper loan servicing?

**A:** If a school has **ONLY** Direct Loans, it may not appeal on the basis of improper loan servicing. If, however, a school has a dual-program cohort rate (both FFEL Program and Direct Loan Program loans), it may appeal the FFEL Program loans included in its dual-program rate on the basis of improper loan servicing. If the appeal is successful, this is likely to reduce the school's dual-program rate.

The following table summarizes the official cohort default rates that your school may appeal on the basis of improper loan servicing.

<b>Official Cohort Rates That May Be Appealed on the Basis of Improper Loan Servicing</b>	
<b>If your school is subject to ...</b>	<b>Your school may...</b>
No sanctions and has a FY 1995 official cohort default rate <b>below</b> 20.0 percent	<b>NOT</b> appeal
No sanctions but has a FY 1995 official cohort default rate <b>equal to or above</b> 20.0 percent	appeal FY 1995
Initial FFEL/Direct Loan loss	appeal FY 1993,* FY 1994,* and FY 1995
Extended FFEL/Direct Loan loss	appeal FY 1995
LS&T only	appeal FY 1995

\* Provided that your school has not previously appealed the rate on the basis of improper loan servicing.

## What role does a guaranty agency have in my school's improper loan servicing appeal to the Department?

At your school's request, a guaranty agency must provide a representative sample of loan servicing records on defaulted student loans that it guaranteed and that were included in your school's applicable cohort default rate.<sup>7</sup>

Your school can expect to receive a response to its request for loan servicing records according to the time frames that follow.

7. 34 CFR § 668.17(h)(3)(iii)



**Q:** If my school is subject to both initial FFEL and/or Direct Loan Program loss AND LS&T, which official cohort default rates may it appeal?

**A:** Your school may appeal its FY 1993, FY 1994, and FY 1995 official cohort default rates—as long as it has not previously appealed the fiscal year's official cohort default rate on the basis of improper loan servicing.

If a guaranty agency's response is late, notify the Department, in writing, of the delay.

A delayed response from a guaranty agency does NOT jeopardize your school's appeal.

## TIMING

### What are the time frames and procedures for submitting a loan servicing appeal?

**Timing is critical** when appealing an official cohort default rate on the basis of improper loan servicing. Department regulations establish the following time frames:

- ❖ Within **10 working days**<sup>8</sup> of receiving its official cohort default rate and official backup data, your school must—

- ❖ review your official cohort default rate notification letter,

AND

- ❖ submit a request for loan servicing records (see sample letter **Request for FY 19\_ \_ Representative Sample of Loan Servicing Records**, located at the end of this section on page 87) to the relevant guaranty agency (or agencies),

AND

- ❖ submit copies of relevant backup data to the relevant guaranty agency (or agencies),

AND

- ❖ simultaneously send the Department copies of the request letters sent to guaranty agencies.



The representative sample is randomly selected by the guaranty agency from the relevant backup data; a school does not select specific borrower records.



#### Note:

If your school fails to submit backup data to a guaranty agency along with its request for loan servicing records, it may lose its right to appeal to the Department on the basis of improper loan servicing and collection.

- ❖ A guaranty agency may charge up to a \$10 processing fee for each loan servicing record provided to your school.<sup>9</sup> If the guaranty agency charges a processing fee, the time frames are as follows—



Time frames when guaranty agencies charge a fee.

8. 34 CFR § 668.17(h)(3)(ii)

9. 34 CFR § 668.17(h)(3)(iii)(D)

- ❖ Within **15 working days** of receiving your school's request for loan servicing records, a guaranty agency must randomly select the requested representative sample of defaulted student loans from those listed in the school's backup data and bill the school for the records.<sup>10</sup>

#### THEN

- ❖ Within **15 working days** of receiving a guaranty agency's request for payment, your school must submit full payment to the guaranty agency for the requested loan servicing records.<sup>11</sup>

#### THEN

- ❖ Within **15 working days** of receiving full payment from your school for the loan servicing records, that guaranty agency must provide your school with the requested loan servicing records.



A guaranty agency that charges for providing copies of loan servicing records **MUST** receive full payment from your school within the required time frame. If not, your school loses its right to challenge that agency's loan servicing records. The guaranty agency then notifies both your school and the Department, in writing, that your school has lost its right to appeal student loans guaranteed by that agency on the basis of improper servicing.<sup>12</sup>

- ❖ If the guaranty agency does NOT require payment for providing copies of loan servicing records, the time frames are as follows—
- ❖ Within **15 working days** of receiving your school's request for loan servicing records, a guaranty agency must provide a school **subject to initial loss or extended loss of FFEL Program and/or Direct Loan Program** with a representative sample of loan servicing records.<sup>13</sup>
- ❖ Within **30 calendar days** of receiving your school's request for loan servicing records, a guaranty agency must provide a school **NOT subject to initial loss or extended loss of FFEL Program and/or Direct Loan Program** with a representative sample of loan servicing records.<sup>14</sup>

If a guaranty agency charges for loan servicing records, the appeal time frames are the same for schools subject to sanctions and for non-sanctioned schools.



Time frames when guaranty agencies do NOT charge a fee.

10. 34 CFR § 668.17(h)(3)(iii)(F)

11. Id.

12. Id.

13. 34 CFR § 668.17(h)(3)(iii)

14. Id.

Time frames when there are missing records.

To determine if any of the selected loan servicing records are missing, a school should cross reference the records provided by the guaranty agency with the list of borrowers included in the sample.

Important: At this point, schools have **30 calendar days** to act.



**Q:** What if the guaranty agency responds that it cannot provide the records that your school identified as missing or illegible?

**A:** Your school submits its loan servicing appeal to the Department within the required time frames and indicates that some records are missing and/or illegible. Your school also includes a copy of the guaranty agency's written response that it cannot provide the records.

ALL schools, regardless of whether a guaranty agency charges for loan servicing records, should—

- ❖ Within **5 working days** of receiving loan servicing records from each guaranty agency, request from the guaranty agency any missing loan servicing records identified as being part of the representative sample or any illegible loan servicing records that need to be recopied.
- ❖ A guaranty agency has **5 working days** to provide your school with missing records and/or readable photocopies.
- ❖ These 5 working days are **ONLY** for requesting missing or recopied (legible) loan servicing records.
- ❖ Within **30 calendar days** of receiving ALL loan servicing records from ALL guaranty agencies, including those records that were missing or illegible, your school must do one of the following:
  - (1) **Notify the Department that your school has chosen not to appeal (see page 159 on how to withdraw an appeal).**
  - OR
  - (2) **Notify the Department that your school will simultaneously submit its improper loan servicing appeal with an erroneous data appeal.<sup>15</sup>**
  - OR
  - (3) **Send the Department your school's improper loan servicing appeal.<sup>16</sup>**

If your school is submitting both a loan servicing appeal and an erroneous data appeal, it has the option of submitting both appeals in the same mailing.<sup>17</sup> (See sample letter **Notification of Intent to Simultaneously Submit FY 19\_ \_ Loan Servicing Appeal and FY 19\_ \_ Erroneous Data Appeal**, located at the end of this section on page 88.)

15. 34 CFR § 668.17(h)(3)(iv)

16. Id.

17. Id.

If your school is submitting both types of appeals, they are due by the later of:

- ❖ within **30 calendar days** from receiving all loan servicing records

OR

- ❖ within **5 working days** from receiving the final response to the school's list of alleged erroneous data from the final guaranty agency (or agencies) and/or the Direct Loan Servicer.



If a school fails to meet ANY of these regulatory time frames, the Department will not review the appeal.

The Department will send the school and each involved guaranty agency written notification of its decision. **The appeal decision is final.**

The tables that follow summarize the time frames a guaranty agency has to respond to your school when:

- (1) it charges a processing fee to schools,
- (2) it does NOT charge a processing fee to schools subject to loss of FFEL Program eligibility,

OR

- (3) it does NOT charge a processing fee to schools not subject to the loss of FFEL Program eligibility.

The first table, on the next page, summarizes the time frames for a guaranty agency that charges a processing fee to schools.



## Improper Loan Servicing Appeal Time Frames When a Processing Fee is Required

### When your school receives its official backup data, it must:

request a representative sample of loan servicing records from guaranty agencies and send copies of the request letters to the Department.

**Requests must be made  
within 10 working days**

### On receiving your school's request, a guaranty agency sends...

the school a list of randomly selected borrowers who will be in the representative sample and a request for full payment.

**This must be sent  
within 15 working days**

### When your school receives request for payment from a guaranty agency, it must:

send full payment to the guaranty agency.

**This must be done  
within 15 working days**

### When your school receives the guaranty agency response to its request for a representative sample of loan servicing records, it must:

- (1) notify the Department that it has chosen to withdraw its improper loan servicing appeal  
OR
- (2) notify the Department that its improper loan servicing appeal will simultaneously be filed with an erroneous data appeal  
OR
- (3) submit to the Department an improper loan servicing appeal.


**This must be done within  
30 calendar days**

If there are missing or illegible records, your school has **5 working days** to request replacement records from the relevant guaranty agencies.


A guaranty agency has **5 working days** to provide the missing records and/or readable copies.



The following table summarizes the time frames for schools subject to the loss of FFEL Program eligibility when a guaranty agency does NOT charge a processing fee.

 <b>Improper Loan Servicing Appeal Time Frames When There is NO Processing Fee for Schools Subject to the Loss of FFEL Program Eligibility</b>	
<b>When your school receives its official backup data, it must:</b>	
request a representative sample of loan servicing records from guaranty agencies and send copies of the request letters to the Department.	
Requests must be made within 10 working days	
<b>On receiving your school's request for loan servicing records...</b>	
The guaranty agency must provide a representative sample of loan servicing records within 15 working days	
<b>When your school receives the guaranty agency response to its request for a representative sample of loan servicing records, it must:</b>	
(1) notify the Department that it has chosen to withdraw from the improper loan servicing appeal process OR (2) notify the Department that its improper loan servicing appeal will simultaneously be filed with an erroneous data appeal OR (3) submit to the Department an improper loan servicing appeal.	
This must be done within 30 calendar days	
If there are missing or illegible records, your school has <b>5 working days</b> to request replacement records from the relevant guaranty agencies.	
A guaranty agency has <b>5 working days</b> to provide the missing records and/or readable copies.	

The following table summarizes the time frames for those schools not subject to the loss of FFEL Program eligibility when a guaranty agency does NOT charge a processing fee.

	<h2>Improper Loan Servicing Appeal</h2> <h3>Time Frames When There is NO Processing Fee for Schools Not Subject to the Loss of FFEL Program Eligibility</h3>
When your school receives its official backup data, it must:	
request a representative sample of loan servicing records from guaranty agencies and send copies of the request letters to the Department.	
Requests must be made within 10 working days	
On receiving your school's request for loan servicing records...	
The guaranty agency must provide a representative sample of loan servicing records within 30 calendar days	
When your school receives the guaranty agency response to its request for a representative sample of loan servicing records, it must:	
<ol style="list-style-type: none"> <li>(1) notify the Department that it has chosen to withdraw from the loan servicing appeal process OR</li> <li>(2) notify the Department that its improper loan servicing appeal will simultaneously be filed with an erroneous data appeal OR</li> <li>(3) submit to the Department an improper loan servicing appeal.</li> </ol>	
This must done within 30 calendar days	

If there are missing or illegible records, your school has **5 working days** to request replacement records from the relevant guaranty agencies.

A guaranty agency has **5 working days** to provide the missing records and/or readable copies.

## SUBMITTING

### How do I prepare and submit an improper loan servicing appeal to the Department?

**Step 1. Review your school's official cohort default rate notification letter to determine if your school is eligible to appeal.**

**Step 2. Initiate an improper loan servicing appeal.<sup>18</sup>**

(A) Within 10 working days of receiving your school's official backup data, mail the following to each relevant guaranty agency:

❖ A letter on your school's letterhead with—

- your school's OPE ID number;
- a statement requesting loan servicing records;
- the fiscal year to which the request applies;
- a certification statement that all information in the appeal is true and correct;
- a signature by your school's President/CEO/Owner, followed by a signature block providing the signer's name and job title;

AND

- a notation that a courtesy copy (cc) will be sent to the Department.

(See sample letter **Request for FY 19\_ \_ Representative Sample of Loan Servicing Records** located at the end of this section on page 87.)

❖ A copy of relevant backup data.

AND



The Department recommends sending all correspondence return receipt requested.

<sup>18</sup> 34 CFR § 668.17(h)(3)(ii)

Your school does NOT need to send backup data to the Department.

- (B) ALSO within **10 working days** of receiving your school's official backup data, mail the following to the Department:

- ❖ A copy of each request for loan servicing records sent to a guaranty agency.



**Note:**

If your school does not meet this **10-working-day** time frame, the guaranty agency will not respond to your letter, and the Department will not review your improper loan servicing appeal. This means your school will NOT be eligible to continue with the improper loan servicing appeal process.

### Step 3. If required, send processing fees to a guaranty agency.

- ❖ A guaranty agency may charge a processing fee of up to \$10 for each defaulted loan servicing record provided to a school. If a guaranty agency charges for providing loan servicing records, it notifies the school, in writing, about the required processing fee. A guaranty agency is not required to provide the records until full payment is received.
- ❖ A school must pay the required processing fees to a guaranty agency within **15 working days** of the date it receives written notice of fees.<sup>19</sup>



Time frames when guaranty agencies charge a fee.



**Note:**

If your school does not meet this **15-working-day** time frame, the guaranty agency will not respond to your request for loan servicing records, and the Department will not review your school's improper loan servicing appeal related to that agency. This means your school will NOT be able to continue with the improper loan servicing appeal with that agency.

### Step 4. Review the loan servicing records from the guaranty agency (or agencies) and decide how to proceed.

- ❖ If the school finds that a record identified in the representative sample is missing or illegible and the school wishes to review the record, it must request the missing or illegible record from the guaranty agency within **5 working days** of receiving the loan servicing records.
- ❖ The guaranty agency has **5 working days** to send the missing records and/or readable copies of the records.

19. 34 CFR § 668.17(h)(3)(iii)(F)

- ❖ Within **30 calendar days** of receiving ALL loan servicing records from ALL guaranty agencies:
  - ❖ review and determine if any of your school's loans did not receive loan servicing activities specified in 34 CFR § 668.17(h)

AND

- ❖ decide if your school wants to withdraw from OR continue with the improper loan servicing appeal process. (See Step 5 for details.)

**Step 5: Tell the Department whether your school is withdrawing from the appeal process or continuing with the appeal process.**

- ❖ If your school wants to **withdraw** from the improper loan servicing appeal process, within **30 calendar days** of receiving ALL relevant guaranty agency responses to your school's request for loan servicing records, notify the Department that your school is withdrawing its improper loan servicing appeal. (See page 159 on how to withdraw an appeal.)

OR

- ❖ If your school wants to **continue** with the improper loan servicing appeal process, within **30 calendar days** of receiving ALL relevant guaranty agency responses either:
  - ❖ notify the Department that your school simultaneously will submit a properly completed improper loan servicing appeal with an erroneous data appeal. (See sample letter **Notification of Intent to Simultaneously Submit FY 19\_\_ Improper Loan Servicing Appeal and FY 19\_\_ Erroneous Data Appeal**, located at the end of this section, on page 88.)

OR

- ❖ appeal ALL records provided by all guaranty agencies in which your school alleges loan servicing errors to the Department in a properly completed improper loan servicing appeal. (See sample letter **Appeal on FY 19\_\_ Allegations of Improper Loan Servicing and Collection**, located at the end of this section, on page 89.) (See Step 6 for details.)

Your school's appeal is NOT jeopardized if it receives a late reply from a guaranty agency.

If your school does not identify any errors, your school should withdraw its appeal.

A properly completed loan servicing appeal submitted to the Department must include ALL allegations of improperly serviced loans for ALL relevant guaranty agencies and for ALL relevant fiscal years.

## Step 6. Submit the properly completed improper loan servicing appeal to the Department.

- ❖ The Department recommends that your school submit its properly completed loan servicing appeal for ALL relevant guaranty agencies for ALL relevant fiscal years to the Department in a single, tabbed report binder, and mail it return receipt requested. An appeal must include:

The section behind Tab 1 contains:

Tab 1

- ❖ A letter on your school's letterhead with—
  - ❖ your school's OPE ID number;
  - ❖ a statement indicating that your school is submitting an improper loan servicing appeal;
  - ❖ the fiscal year to which the appeal applies;
  - ❖ a certification statement that all information in the appeal is true and correct. See 34 CFR § 668.17(h) (3) (iv) (F);
  - ❖ a signature by your school's President/CEO/Owner, followed by a signature block providing the signer's name and job title;

AND

- ❖ a notation that a courtesy copy (cc) will be sent to the guaranty agency (or agencies).

(See sample letter **Appeal on FY 19\_ \_ Allegations of Improper Loan Servicing and Collection**, located at the end of this section on page 89.)

The section behind Tab 2 contains:

Tab 2

- ❖ copies of all relevant correspondence, including the guaranty agency (or agencies) responses to the school's request for loan servicing records. See 34 CFR § 668.17(h) (3) (iv) (B) and (C).

The section behind Tab 3 contains:

Tab 3

- ❖ a spreadsheet of all alleged loan servicing errors for each guaranty agency. (Use spreadsheet **FY 19\_ \_ Appeal on Allegations of Improperly Serviced Loans in the Official Cohort Rate**, located at the end of this section on page 91, or its equivalent.) See 34 CFR § 668.17(h) (3) (iv) (A) and (E).

The section behind Tab 4 contains:

Tab 4

- ❖ a copy of the loan servicing records provided by the guaranty agency (or agencies) identified on the spreadsheet in Tab 3. See 34 CFR § 668.17(h) (3) (iv) (B).
- ❖ ONLY send copies of loan servicing records that your school alleges to be improperly serviced.

Schools should maintain copies of the loan servicing records submitted to the Department.

Schools do NOT need to submit backup data to the Department.

**If sent by commercial overnight mail/courier delivery, send your school's loan servicing appeal to:**

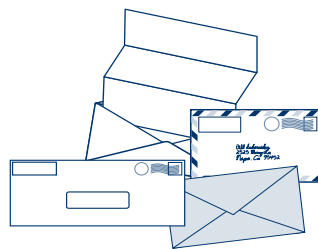


U.S. Department of Education  
Default Management Division  
ATTN: Improper Loan Servicing and  
Collection Appeals  
ROB-3, Room 5125  
7th and D Streets, SW  
Washington, DC 20202

For entry into the building, call  
202/708-6048

**If sent by U.S. Postal Service, send your school's loan servicing appeal to:**

U.S. Department of Education  
Default Management Division  
ATTN: Improper Loan Servicing and  
Collection Appeals  
ROB-3, Room 5125  
600 Independence Avenue, SW  
Washington, DC 20202-5353



The Department will review only the information submitted in the improper loan servicing appeal and will not consider information submitted after the regulatory deadlines. The Department will send the school and each involved guaranty agency written notification of its decision. **The decision is final.**

The Department accepts deliveries from commercial couriers and/or hand deliveries on Monday through Friday, 8:00 a.m. to 4:30 p.m. (Eastern Time).



The Department recommends sending all correspondence return receipt requested.







# Our Town A&M University

1212 Tiger Lane  
Any Town, Any State 00000-0000  
(000) 000-0000

November 6, 1997

State Guaranty Agency  
ATTN: Compliance Officer  
1010 Joppa Lane, Suite 200  
Any Town, Any State 00000-0000

## Sample Letter

**Subject: Request for FY 19\_\_ Representative Sample of Loan Servicing Records**

To Whom It May Concern:

Our Town A&M University, OPE ID 001100, is requesting a representative sample of its loan servicing records for FY 19\_\_ . Enclosed is a copy of the school's relevant FY 19\_\_ official backup data.

Sincerely,

*Rain E. Forrest*

Rain E. Forrest, President  
Our Town A&M University

Enclosures

cc: U.S. Department of Education



## Our Town A&M University

1212 Tiger Lane  
Any Town, Any State 00000-0000  
(000) 000-0000

December 5, 1997

U.S. Department of Education  
Default Management Division  
ATTN: Joint Appeals Team  
ROB-3, Room 5125  
600 Independence Avenue, SW  
Washington, DC 20202-5353

### Sample Letter

**Subject: Notification of Intent to Simultaneously Submit FY 19\_\_ Improper Loan Servicing Appeal and FY 19\_\_ Erroneous Data Appeal**

To Whom It May Concern:

Our Town A&M University, OPE ID 001100, will be submitting its FY 19\_\_ improper loan servicing appeal and FY 19\_\_ erroneous data appeal simultaneously in accordance with 34 CFR § 668.17(h)(3)(iv).

Thank you for your consideration.

Sincerely,

*Rain E. Forrest*

---

Rain E. Forrest, President  
Our Town A&M University



## Our Town A&M University

1212 Tiger Lane  
Any Town, Any State 00000-0000  
(000) 000-0000

December 5, 1997

U.S. Department of Education  
Default Management Division  
ATTN: Improper Loan Servicing  
and Collection Appeals  
ROB-3, Room 5125  
600 Independence Avenue, SW  
Washington, DC 20202-5353

### Sample Letter

**Subject: Appeal on FY 19\_\_ Allegations of Improper Loan Servicing and Collection**

To Whom It May Concern:

Our Town A&M University, OPE ID 001100, is submitting its appeal on FY 19\_\_ allegations of improperly serviced loans included in its official cohort default rate.

I, the undersigned, certify that all information provided in this improper loan servicing and collection appeal is true and correct.

Sincerely,

*Rain E. Forrest*

---

Rain E. Forrest, President  
Our Town A&M University

Enclosures

cc: State Guaranty Agency

# Appealing Improper Loan Servicing and Collection

## How to fill out FY 19 \_\_ Allegations of Improperly Serviced Loans in the Official Cohort Default Rate spreadsheet

Record all loans being appealed to the U.S. Department of Education (the Department) using a spreadsheet software application such as Lotus 1-2-3, Supercalc, or Excel. The resulting spreadsheet is sent to the Department.



**Note:** Important: Fill out a separate spreadsheet for each guaranty agency.

The spreadsheet width should be on one page in a landscape (horizontal) layout. A sample spreadsheet is on the opposite page.

**Header:**

Enter **FY 19 \_\_ Allegations of Improperly Serviced Loans in the Official Cohort Default Rate** in the center of the header area. In the upper left, enter your school's name, your school's OPE ID number, and the total number of loan servicing records for the relevant guaranty agency being submitted to the Department for review.

**Footer:**

Enter the date the appeal was prepared in the left side of the footer area. Set up automatic pagination in the upper right of the footer area so that the specific page number and total number of pages shows on each page (for example: page 1 of 10 pages).

On Row 1, enter **exactly** the same column name in **exactly** the same order as listed on the sample spreadsheet. (Use a row height of 60.)

On Row 2 and below, the following data for the header must be included for each alleged error. (Use a row height of 15.)

**Column 1:**

Enter the borrower's Social Security number using hyphens to separate the numbers (example: 000-88-000). If more than one is listed, sort by numerical order when ready to print the spreadsheet.

**Column 2:**

Enter the borrower's name.

**Column 3:**

Enter MM/DD/YY (month/day/year) to identify when a demand letter (other than a final demand letter) was sent. Leave blank if a demand letter was not sent.

**Column 4:**

Enter MM/DD/YY to identify when a telephone call to the borrower was attempted. Leave blank if a telephone call was not attempted.

**Column 5:**

Enter MM/DD/YY to identify when pre-claims assistance was requested. Leave blank if pre-claims assistance was not requested.

**Column 6:**

Enter MM/DD/YY to

identify when a final demand letter was sent. Leave blank if a final demand letter was not sent.

**Column 7:**

Enter MM/DD/YY if there is evidence or certification that skip tracing was performed. Enter N/A (not applicable) if not required or leave blank if evidence or certification is not evident.

**Column 8:**

Enter X if an illegible loan servicing record was provided. Leave blank if record was legible.

**Column 9:**

Enter X if a loan servicing record was not provided by the guaranty agency. Leave blank if record was provided.

**Note:** This is a sample spreadsheet.

School Name  
OPE ID No.  
Total no. of loan servicing records  
being provided to the Department

[illegible]

Page \_\_\_\_ of \_\_\_\_ pages



# Exceptional Mitigating Circumstances Appeal

## BACKGROUND

If, on the basis of its FY 1995 official cohort default rate, your school is subject to initial or extended loss of FFEL Program and/or Direct Loan Program eligibility, your school may file an exceptional mitigating circumstances appeal<sup>1</sup> under one or more of the following circumstances:

- ❖ If your school certifies relatively few FFEL Program and/or Direct Loan Program loans, you may be able to file an appeal if your **participation rate index is .0375 (3.75 percent) or less.**<sup>2</sup>
- ❖ If your school is a **non-degree-granting school** that enrolls 70.0 percent or more of its students from **economically disadvantaged backgrounds AND has a job placement rate of 50.0 percent or more.**<sup>3</sup>
- ❖ If your school is a **degree-granting school** that enrolls 70.0 percent or more of its students from **economically disadvantaged backgrounds AND has a program completion rate of 70.0 percent or more.**<sup>4</sup>

Further details are provided later in this section on each of these three types of exceptional mitigating circumstances.



Schools also must submit an **independent auditor's attestation** to support an exceptional mitigating circumstances appeal.<sup>5</sup>

1. HEA 435(a)(2)(A)(ii)
2. 34 CFR § 668.17(c)(1)(ii)(A)
3. 34 CFR § 668.17(c)(1)(ii)(B) and (B)(2)
4. 34 CFR § 668.17(c)(1)(ii)(B) and (B)(1)
5. 34 CFR § 668.17(c)(7)

## Does my school have to be subject to sanctions to submit an exceptional mitigating circumstances appeal?

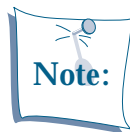
Only schools that are subject to the following actions may submit an exceptional mitigating circumstances appeal:

A school must be subject to initial loss or extended loss of FFEL Program and/or Direct Loan Program eligibility to submit an exceptional mitigating circumstances appeal.

- (1) **initial loss of FFEL Program and/or Direct Loan Program eligibility.** This results from FY 1993, FY 1994, and FY 1995 official cohort default rates that are equal to or greater than 25.0 percent.<sup>6</sup>

OR

- (2) **extended loss of FFEL Program and/or Direct Loan Program eligibility.** This results when a school lost FFEL Program and/or Direct Loan Program eligibility prior to the release of the FY 1995 official cohort default rates due to three consecutive official cohort default rates equal to or greater than 25.0 percent AND all subsequent official cohort default rates have been 25.0 percent or greater.<sup>7</sup>



**Note:**

A school that is subject **only** to a possible limitation, suspension, and termination (LS&T) action on the basis of any of its three most recent official cohort default rates may NOT file an exceptional mitigating circumstances appeal.

A school is subject to a possible LS&T action in all Title IV student financial aid programs when a school's FY 1995 official cohort default rate is greater than 40.0 percent.

A school may NOT file an exceptional mitigating circumstances appeal on the basis of its participation rate index if its FY 1995 official cohort default rate is greater than 40.0 percent.<sup>8</sup>

**Example 1:** Our City College's (OCC) cohort default rates are as follows—

FY 1995: 50.5%      FY 1994: 28.7%      FY 1993: 29.9%

On notification of its FY 1995 official cohort default rate, OCC, a non-degree-granting school, is subject to a possible LS&T action; it is also subject to initial loss of eligibility because this is its third consecutive cohort default rate of 25.0 percent or greater. Therefore, OCC may file an appeal on the basis of its economically disadvantaged and placement rates. OCC may not, however, file an exceptional mitigating

6. 34 CFR § 668.17(b)

7. Id.

8. 34 CFR § 668.17(c)(1)(ii)(A)



circumstances appeal on the basis of its participation rate index because its FY 1995 official cohort default rate is greater than 40.0 percent.

**Example 2:** Your Town College's (YTC) cohort default rates are as follows—

FY 1995: 49.7%      FY 1994: 26.0%      FY 1993: 21.7%

On notification of its FY 1995 official cohort default rate, YTC is subject to a possible LS&T action but is **not** subject to initial or extended loss of eligibility. Because of this, YTC may NOT file an exceptional mitigating circumstances appeal.

## How can a successful exceptional mitigating circumstances appeal affect my school's official cohort default rate?

If your school's appeal is successful, the Department withdraws its notification of loss or extension of loss of your school's eligibility to participate in the FFEL Program and/or Direct Loan Program.<sup>9</sup> A successful exceptional mitigating circumstances appeal does NOT, however, change your school's official cohort default rate.

## What role does a guaranty agency or Direct Loan servicer have in my school's exceptional mitigating circumstances appeal to the Department?

Neither a guaranty agency nor the Direct Loan servicer has a role in your school's exceptional mitigating circumstances appeal. All exceptional mitigating circumstances appeals are submitted directly to the Department for review and consideration.



**Q:** What effect does a successful FY 1995 exceptional mitigating circumstances appeal have on future FFEL Program and/or Direct Loan Program eligibility determinations based, in part, on my school's FY 1995 official cohort default rate?

**A:** None. Regardless of a successful FY 1995 exceptional mitigating circumstances appeal, your school's FY 1995 official cohort default rate may be considered in future administrative actions by the Department and in future cohort default rate sanctions.

9. 34 CFR § 668.17(c)(5)

If your school selects an unacceptable 12-month period, its appeal will be denied.

Your school's 12-month period cannot overlap the starting date.

◆ Acceptable:

- June 20, 1993 to June 19, 1994

◆ Not Acceptable:

- June 20, 1993 to June 20, 1994

If you are not sure whether your school is classified as a degree-granting or non-degree granting school, please refer to your school's Eligibility and Certification Approval Report generated by the Department's Case Management Division. The telephone number for the Case Management Division is 202/205-0183.

## Must appeals be on the basis of specific time periods?

For each exceptional mitigating circumstances appeal, your school must base its appeal on a specific 12-month period. The regulations provide that an exceptional mitigating circumstances appeal must be on the basis of "a 12-month period that has ended during the six months immediately preceding the fiscal year for which the cohort of borrowers used to calculate the institution's rate is determined."<sup>10</sup> Accordingly, for an exceptional mitigating circumstances appeal for the FY 1995 cohort default rate, your school must select a 12-month period that has a start date that is **no earlier than April 2, 1993 and no later than October 1, 1993**.

◆ For example:

**Acceptable:** April 2, 1993 - April 1, 1994

**Not Acceptable:** April 1, 1993 - March 31, 1994

**Acceptable:** October 1, 1993 - September 30, 1994

**Not Acceptable:** October 2, 1993 - October 1, 1994

## Can my school file an exceptional mitigating circumstances appeal on the basis of more than one criterion?

Yes, a school may be able to file an exceptional mitigating circumstances appeal on the basis of as many as two criteria.

- ◆ A **non-degree-granting school** may file an exceptional mitigating circumstances appeal on the basis of its participation rate index AND on the grounds of its economically disadvantaged and placement rates, if it meets all the criteria for both types of appeals.
- ◆ A **degree-granting school** may file an exceptional mitigating circumstances appeal on the basis of its participation rate index AND on the grounds of its economically disadvantaged and completion rates, if it meets all the criteria for both types of appeals.

10. 34 CFR § 668.17(c)(1)(ii)(A) and (B)



**Note:**

A school with a FY 1995 official cohort default rate greater than 40.0 percent may NOT submit an exceptional mitigating circumstances appeal on the basis of its participation rate index.

## TIMING

### What are the time frames for submitting an exceptional mitigating circumstances appeal?

Your school must submit its **exceptional mitigating circumstances** appeal and the **independent auditor's attestation** within the following regulatory time frames.

- ❖ Within **30 calendar days** of receiving notification of its initial or extended loss of FFEL Program and/or Direct Loan Program eligibility, your school must submit its exceptional mitigating circumstances appeal to the Department.<sup>11</sup>
- ❖ Within **60 calendar days** of receiving notification of its initial or extended loss of FFEL Program and/or Direct Loan Program eligibility, your school or independent auditor must submit an independent auditor's attestation of your appeal to the Department.<sup>12</sup>

### Time Frames for Exceptional Mitigating Circumstances Appeals

School receives official notification of its initial or extended loss of FFEL Program and/or Direct Loan Program eligibility

within 30 calendar days

School mails its complete appeal to the Department

within 60 calendar days

School or independent auditor mails an attestation on the appeal to the Department



**Q:** How does my school submit an appeal on the basis of its economically disadvantaged rate and its completion or placement rate in addition to its participation rate index?

**A:** They may be submitted together or at different times within the 30-calendar-day period. Also, the independent auditor's attestations supporting the different criteria can be submitted together or at different times within the 60-calendar-day period.

If your school fails to meet the time frames, the Department will NOT review the appeal.

11. 34 CFR § 668.17(c)(1)

12. 34 CFR § 668.17(c)(7)

The **Statement on Standards for Attestation Engagements #3** is published in the most recent *American Institute of Certified Public Accountants' Codification of Statements on Auditing Standards*.

## What is an independent auditor's attestation?

An auditor's attestation is a certified public accountant's opinion according to the American Institute of Certified Public Accountants' (AICPAs') Statement on Standards for Attestation Engagements #3 on an assertion made by management on your school's exceptional mitigating circumstances appeal.<sup>13</sup> The regulations provide that if an institution appeals on the grounds that it meets the exceptional mitigating circumstances criteria, the institution must also include in its appeal an opinion from an independent auditor on management's assertions that the information contained in the appeal is complete, accurate, and determined in accordance with the Department's regulations in 34 CFR § 668.17(c) (1) (ii). The institution or auditor must submit the attestation to the Department within 60 calendar days of receiving notification of its initial or extended loss of FFEL Program and/or Direct Loan Program eligibility.

The AICPAs' Statement on Standards for Attestation Engagements #3 contains the reporting requirements and guidelines the auditor must follow when providing an opinion on management's assertions. The auditor will express an opinion about whether management's assertion that the institution complied with the exceptional mitigating circumstances regulations is fairly presented in all material respects. For a sample letter of an auditor's attestation, see page 113.

## Before making the attestation, is the auditor required to perform a full-file review of my school's records?

The auditor must follow the AICPAs' Statement on Attestation Engagements #3 and perform all other procedures that the auditor believes are reasonably necessary to complete the attestation. The auditor should follow all standards that are applicable to an examination level engagement and, on the basis of his or her professional judgement, determine the nature and extent of the procedures that are necessary for him or her to express an opinion on management's assertion.

---

13. 34 CFR § 668.17(c) (7)

# Participation Rate Index Criterion

## QUALIFYING

If your school certifies relatively few FFEL Program and/or Direct Loan Program loans, it may be able to file an exceptional mitigating circumstances appeal on the basis of its participation rate index.<sup>14</sup> The participation rate index is the fraction of your school's regular students enrolled on at least a half-time basis who were awarded a loan under the FFEL Program and/or Direct Loan Program during a selected 12-month period as required in 34 CFR § 668.17(c)(1)(ii)(A) **multiplied by** your school's FY 1995 official cohort default rate.



A school with an FY 1995 official cohort default rate greater than 40.0 percent may not submit an exceptional mitigating circumstances appeal on the basis of its participation rate index.<sup>15</sup>

A school must select a 12-month period that has a start date that is **no earlier than April 2, 1993 and no later than October 1, 1993.**

See page 96 for further information on selecting a 12-month period.

The checklist below summarizes the participation rate index eligibility criteria.



### Exceptional Mitigating Circumstances Appeal on the Basis of Participation Rate Index Eligibility Checklist

To be eligible to appeal on the basis of its participation rate index, your school must meet the following criteria:

- ☐ Your school is subject to either of these sanctions—
  - ☐ initial FFEL Program/Direct Loan Program loss
  - OR
  - ☐ extended FFEL Program/Direct Loan Program loss
- ☐ Your school's participation rate index is .0375 (3.75 percent) or less as described in 34 CFR § 668.17(c)(1)(ii)(A)
- ☐ Your school's FY 1995 official cohort default rate is below 40.1 percent

14. 34 CFR § 668.17(c)(1)(ii)(A)


15. Id.

## SUBMITTING

### How do I calculate the participation rate index?

The **participation rate index (PRI)**<sup>16</sup> is calculated as follows:

your school's FY 1995 official cohort default rate [A1]	X	<div>number of regular students enrolled on at least a half-time basis who were awarded FFEL Program loans or Direct Loan Program loans during the selected* 12-month period [A2]</div> <hr/> <div>number of regular students enrolled on at least a half-time basis during the selected* 12-month period [A3]</div>
--	---	--

 **Note:** \*Information on how to select an acceptable 12-month period is provided on page 96.

To succeed on an exceptional mitigating circumstances appeal on the basis of your school's participation rate index, your school must have a participation rate index of 3.75 percent (.0375) or less.<sup>17</sup>

**Example:** Hometown Academy's (HA) FY 1995 official cohort default rate is 25.0 percent. HA had a total of 200 regular students enrolled on at least a half-time basis during the selected 12-month period. Of those 200 students, 14 students were awarded FFEL Program loans and 12 students were awarded Direct Loan Program loans during the selected 12-month period. HA's participation rate index is calculated as follows:

25.0% [A1]	X	<div>14 (FFEL) + 12 (DL) = 26 [A2]</div> <hr/> <div>200 [A3]</div>	=	3.25% (.0325)
------------	---	--	---	------------------

16. 34 CFR § 668.17(c) (1) (ii) (A)

17. Id.

Therefore, its participation rate index

$$= A1 \times A2 / A3 = 25.0 \times 26 / 200 = 3.25\% (.0325)$$

Hometown Academy's participation rate index is 3.25 percent (.0325). Because this is less than or equal to 3.75 percent (.0375), HA can file an exceptional mitigating circumstances appeal on the basis of its participation rate index.

## How does my school prepare and submit an exceptional mitigating circumstances appeal on the basis of its participation rate index to the Department?

**Step 1: Calculate and list data to support your school's participation rate index.**

- ❖ Use the PRI spreadsheet (**FY 1995 Participation Rate Index**) on page 111 or its equivalent to count and list the students who will be included in your school's participation rate index. (If you use your own spreadsheet, it must include all of the information shown on the PRI spreadsheet.)
- ❖ On the PRI spreadsheet, fill out your school's name and OPE ID Number.
- ❖ Select an acceptable 12-month period and enter it on the PRI spreadsheet (see page 96 for details).
- ❖ Fill out Column 1 of the PRI spreadsheet: In numerical order, list the Social Security numbers of all your regular students enrolled on at least a half-time basis during any part of the selected 12-month period.
- ❖ Fill out Column 2 of the PRI spreadsheet: For each Social Security number, list the student's name.
- ❖ Fill out Column 3 of the PRI spreadsheet: For each student, provide beginning and ending **enrollment dates**. For all enrollment dates, include the month, day and year (MM/DD/YY).

A "regular student" is defined as a person who is enrolled, or accepted for enrollment, in an eligible program at an eligible postsecondary institution for the purpose of obtaining a degree, certificate, or other recognized educational credential offered by that institution as defined in 34 CFR § 600.2.

In your list of "regular students" enrolled on at least a half-time basis, you must include students who:

- began enrollment before the 12-month period and ended enrollment during or after the 12-month period,
- AND/OR
- began enrollment during the 12-month period and ended enrollment during or after the 12-month period.





**Q:** If a student has a break in enrollment and leaves school, then returns and begins a new enrollment period, all during the selected 12-month period, which enrollment dates should my school use?

**A:** List both; the student will be counted only once.

- ❖ Fill out Column 4 of the PRI spreadsheet: If the student was awarded an FFEL Program loan or a Direct Loan Program loan during the selected 12-month period, enter X. (If not, do not make an entry.)

- ❖ The students for whom you enter X will be those students who were awarded FFEL Program loans or Direct Loan Program loans for a period of enrollment **during any part** of the 12-month period selected. If any part of the loan period dates fall within the 12-month period, the student must be identified and counted as having been awarded a student loan.



**Q:** If more than one loan period falls during the selected 12-month period, which loan date should my school use?

**A:** List both; the student will be counted only once.



**Note:**

No student may be counted more than once, even if the student was awarded more than one loan.

- ❖ Fill out Column 5 of the PRI spreadsheet: For each student with an FFEL Program loan or a Direct Loan Program loan, provide the beginning and ending dates of the **loan period**.
- ❖ Complete Box A by identifying your school's FY 1995 official cohort default rate. This is **A1** in the calculation. Enter this rate in Box A on the PRI spreadsheet.
- ❖ Count the number of Xs that appear in Column 4. The total number of Xs will be **A2** in the calculation. Record this number in Box A on the PRI spreadsheet.
- ❖ Count the total number of students listed in the PRI spreadsheet by counting the number of entries in Column 1. The total number of students will be **A3** in the calculation. Record this number in Box A on the PRI spreadsheet.
- ❖ Calculate  $A1 \times A2 / A3$  and record the result in Box A on the PRI spreadsheet. **This is your school's participation rate index.**





For a successful appeal, your school's participation rate index must be 3.75 percent (.0375) or less.

**Step 2: Submit your school's properly completed exceptional mitigating circumstances appeal on the basis of its participation rate index.**

- ❖ Within **30 calendar days** of your school receiving notification of its initial or extended loss of FFEL Program and/or Direct Loan Program eligibility, mail your exceptional mitigating circumstances appeal to the Department.
- ❖ The Department recommends that your school submit its properly completed exceptional mitigating circumstances appeal in a single, tabbed binder, and mail it return receipt requested. Here are the recommended tabs and materials:



The Department recommends sending all correspondence return receipt requested.

The section behind Tab 1 contains:

**Tab 1**

- ❖ A letter on your school's letterhead with—
  - ❖ your school's OPE ID number;
  - ❖ a statement indicating that your school is submitting an exceptional mitigating circumstances appeal on the basis of your participation rate index;
  - ❖ the fiscal year to which the appeal applies;

**AND**

- ❖ your school's President/CEO/Owner's certification, under penalty of perjury, that all information in the appeal is correct.
  - Your school's President/CEO/Owner's signature must be followed by a signature block providing the signer's name and job title.

(See sample letter **FY 1995 Exceptional Mitigating Circumstances Appeal on the Basis of Participation Rate Index**, located at the end of this section on page 107.)

The section behind Tab 2 contains:

**Tab 2**

- ❖ A completed PRI spreadsheet with a list of all students used to calculate your participation rate index. (Use spreadsheet **FY 1995 Participation Rate Index**, located at the end of this section on page 111, or its equivalent.)

More information on the auditor's attestation is provided on page 98.



The Department recommends sending all correspondence return receipt requested.

### Step 3: Submit an independent auditor's attestation.

- ❖ Within **60 calendar days** of your school receiving notification of its initial or extended loss of FFEL Program and/or Direct Loan Program eligibility, mail an independent auditor's attestation of your school's exceptional mitigating circumstances appeal on the basis of its participation rate index to the Department.
- ❖ The attestation should be in the form of a letter on the independent auditor's letterhead with—

- ❖ your school's name;
- ❖ your school's OPE ID number;
- ❖ the fiscal year to which the appeal applies;
- ❖ an opinion on management's assertion that the information contained in the appeal is complete, accurate, and determined in accordance with the Department's regulations in 34 CFR § 668.17(c)(1)(ii);

AND

- ❖ the letter should be signed by the independent auditor, followed by a signature block providing the signer's name and job title.

(See sample letter **Independent Accountant's Attestation Report for Exceptional Mitigating Circumstances Appeal on the Basis of FY 1995 Participation Rate Index**, located at the end of this section on page 113.)



**Note:**

If a school fails to meet the regulatory time frames for the appeal and/or attestation, the Department will NOT review the appeal.<sup>18</sup>

18. 34 CFR § 668.17(c)(1) and (c)(7)

**If sent by commercial overnight mail/courier delivery, send your exceptional mitigating circumstances appeal to:**

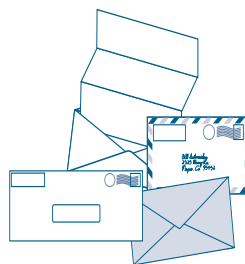


U.S. Department of Education  
Default Management Division  
ATTN: Exceptional Mitigating  
Circumstances Appeals  
ROB-3, Room 5125  
7th and D Streets, SW  
Washington, DC 20202

For entry into the building,  
call 202/708-6048

**If sent by U.S. Postal Service, send your school's exceptional mitigating circumstances appeal to:**

U.S. Department of Education  
Default Management Division  
ATTN: Exceptional Mitigating  
Circumstances Appeals  
ROB-3, Room 5125  
600 Independence Avenue, SW  
Washington, DC 20202-5353



The Department accepts deliveries from commercial couriers and/or hand deliveries on Monday through Friday, 8:00 a.m. to 4:30 p.m. (Eastern Time).



The Department recommends sending all correspondence return receipt requested.





## Our Town A&M University

1212 Tiger Lane  
Any Town, Any State 00000-0000  
(000) 000-0000

December 5, 1997

### Sample Letter

U.S. Department of Education  
Default Management Division  
ATTN: Exceptional Mitigating Circumstances Appeals  
ROB 3, Room 5125  
600 Independence Avenue, SW  
Washington, DC 20202-5353

**Subject: FY 1995 Exceptional Mitigating Circumstances Appeal on the  
Basis of Participation Rate Index**

To Whom It May Concern:

Our Town A&M University, OPE ID 001100, is submitting its FY 1995 exceptional mitigating circumstances appeal on the basis of its participation rate index.

I, the undersigned, certify under penalty of perjury, that the school's participation rate index is X.XXX% (.0XXX) and that all other information submitted in support of this exceptional mitigating circumstances appeal is true and correct.

Sincerely,

*Rain E. Forrest*

Rain E. Forrest, President  
Our Town A&M University

Enclosures



# Appealing Exceptional Mitigating Circumstances on the Basis of Participation Rate Index

## How to fill out FY 1995 Participation Rate Index spreadsheet

Count and list the students who will be included in the calculation of your school's participation rate index to the U.S. Department of Education (the Department) using a spreadsheet software application such as Lotus 1-2-3, Supercalc, or Excel. The resulting spreadsheet must be sent to the Department.

The spreadsheet width should be on one page in a landscape (horizontal) layout. A sample spreadsheet follows these instructions.

**Header:**

Enter **FY 1995 Participation Rate Index** in the center of the header area. In the left-hand area, enter your school's name, your school's OPE ID number, and your school's selected 12-month period.



**You must select a 12-month period that has a start date NO EARLIER THAN April 2, 1993 and NO LATER THAN October 1, 1993.**

**Footer:**

Enter the date when the appeal was prepared in the left side of the footer area. Set up automatic pagination in the right side of the footer area so that the specific page number and the total number of page numbers show on each page, for example: page 1 of 10 pages.

On Rows 1, 2, 3, and 4 use the draw tool to draw a rectangle covering lines A1 to E4. Using the text-box tool, draw another box for **Box A** information. In this box, enter your school's FY 1995 Official Cohort Default Rate [A1], the number of students (reported in column 4) awarded FFEL/DL loans [A2], the number of regular students (listed in Column 1) [A3], and your school's participation rate index [A1x A2/A3].

On Row 5, enter **exactly** the same column names in **exactly** the same order as listed on the sample spreadsheet. (Use a row height of 60.)

On Row 6 and below, include the following data in the header for each student who will be included in calculating your school's participation rate index. (Use a row height of 15.)

**Column 1:**

Enter the student's Social Security number using hyphens to separate the numbers (example: 000-88-000) of all of your regular students enrolled on **at least a half-time basis** during any part of the selected 12-month period. (No student may be counted more than once.) Sort by numerical order when ready to print the spreadsheet.

**Column 2:**

Enter the student's name.

**Column 3:**

Enter MM/DD/YY (month, day, year) to identify the beginning enrollment date and ending enrollment date.

**Column 4:**

Enter X if the student was awarded an FFEL Program Loan or a Direct Loan Program loan **during any part** of the selected 12-month period. Leave blank if a loan was not awarded.

- ◆ The students for whom you enter X will be any students listed who were awarded FFEL Program loans or Direct Loan Program loans for a period of enrollment during any part of the selected 12-month period selected. If any part of the loan period dates fall within the 12-month period, the student must be identified and counted as having been awarded a loan.

**Column 5:**

If loan was awarded, enter MM/DD/YY to identify the beginning date and ending date of the **loan period**. If column 4 is not filled out, leave blank.

# Appealing Exceptional Mitigating Circumstances on the Basis of Participation Rate Index

How to fill out FY 1995 Participation Rate Index spreadsheet (cont'd)

Instructions for Box A (located in the shaded area):

- ◆ Identify your school's FY 1995 official cohort default rate. This is A1 in the calculation.
- ◆ Count the number of Xs that appear in Column 4. The total number of Xs will be A2 in the calculation. Record this number in Box A on the PRI spreadsheet.
- ◆ Count the total number of students listed in the PRI spreadsheet by counting the number of entries in Column 1. The total number of students will be A3 in the calculation. Record this number in Box A on the PRI spreadsheet.
- ◆ Calculate  $A1 \times A2/A3$  and record the result in Box A on the PRI spreadsheet. **This is your school's participation rate index.**



School Name  
OPE ID Number  
12-Month Period

## FY 1995 Participation Rate Index

NOTE: This is a sample spreadsheet.  
(See instructions.)

[illegible]

MM/DD/YY

[send to U.S. Department of Education]

Page \_\_\_ of \_\_\_ pages





# GLOBAL ACCOUNTING, INC.

1212 World Street  
Any Town, Any State 00000-0000  
(000) 000-0000

U.S. Department of Education  
Default Management Division  
ATTN: Exceptional Mitigating Circumstances Appeals  
ROB 3, Room 5125  
600 Independence Avenue, SW  
Washington, DC 20202-5353

December 15, 1997

## Sample Letter

**Subject: Independent Accountant's Attestation Report for Exceptional Mitigating Circumstances Appeal on the Basis of Participation Rate Index**

To Whom It May Concern:

We have examined management's assertion included in its representation letter, dated [give date], stating that the information contained in Our Town A&M University's (OPE-ID 001100) exceptional mitigating circumstances appeal on the basis of its participation rate index, is complete, accurate and determined in accordance with the requirements of 34 CFR § 668.17(c). As discussed in that representation letter, management is responsible for Our Town A&M University's compliance with those requirements. Our responsibility is to express an opinion on management's assertion about the institution's compliance based on our examination.

Our examination was made in accordance with standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence about Our Town A&M University's compliance with 34 CFR § 668.17(c) and performing such other procedures as we considered necessary in the circumstances. We believe our examination provides a reasonable basis for our opinion. Our examination does not provide a legal determination on Our Town A&M University's compliance with specified requirements.

In our opinion, management's assertion that the information contained in Our Town A&M University's appeal, dated [give date], which reports that Our Town A&M University has a participation rate index of **X.XX % (.0XXX)** for the twelve-month period beginning on **MM/DD/YY** and ending on **MM/DD/YY**, is complete, accurate, and determined in accordance with the requirements set forth in 34 CFR § 668.17(c), is fairly stated, in all material respects.

This report is intended solely for the information of an audit committee, management, and the U.S. Department of Education. This report is, however, a matter of public record and its distribution is not limited.

Respectfully submitted,

**Storm E. Petrel**

Storm E. Petrel, CPA  
President, Global Accounting, Inc.

## ***Economically Disadvantaged and Placement Rates Criteria***

### **QUALIFYING**

To file an exceptional mitigating circumstances appeal on the basis of **economically disadvantaged and placement rates**, your school must:

- ❖ be a non-degree-granting school,<sup>19</sup>

AND

- ❖ demonstrate that 70.0 percent or more of its regular students during a selected 12-month period were individuals who came from **disadvantaged economic backgrounds**,<sup>20</sup>

AND

- ❖ demonstrate that 50.0 percent or more of its students who were initially enrolled on at least a half-time basis and who were originally scheduled to complete their programs during the same 12-month period **obtained employment in the occupations for which the school provided training**.<sup>21</sup>

The checklist on the next page summarizes the eligibility criteria for an exceptional mitigating circumstances appeal on the basis of economically disadvantaged and placement rates. Review the checklist to determine your school's eligibility to appeal on the basis of exceptional mitigating circumstances.

A school must select a 12-month period that has a start date that is **no earlier than April 2, 1993 and no later than October 1, 1993**.

See page 96 for further information on selecting a 12-month period.

If you are not sure whether your school is classified as a degree-granting or non-degree-granting school, please refer to your school's Eligibility and Certification Approval Report generated by the Department's Case Management Division. The telephone number for the Case Management Division is 202/205-0183.

19. 34 CFR § 668.17(c)(1)(ii)(B)(2)

20. 34 CFR § 668.17(c)(1)(ii)(B)

21. 34 CFR § 668.17(c)(1)(ii)(B)(2)



## Exceptional Mitigating Circumstances Appeal on the Basis of Economically Disadvantaged and Placement Rates Eligibility Checklist

To be eligible to appeal on the basis of its students' economically disadvantaged rate and placement rate, your school must meet the following criteria:

- ☐ Your school is subject to either of these sanctions—
  - ☐ initial FFEL Program/Direct Loan Program loss
  - OR
  - ☐ extended FFEL Program/Direct Loan Program loss
- ☐ Your school is a **non-degree-granting** school that—
  - ☐ enrolls 70.0 percent or more of its students from disadvantaged economic backgrounds as described in 34 CFR § 668.17(c)(1)(ii)(B)
  - AND
  - ☐ can demonstrate that 50.0 percent or more of its students were placed successfully as described in 34 CFR § 668.17(c)(1)(ii)(B)(2)

These appeal criteria are only for non-degree-granting schools.

## SUBMITTING

### How do I calculate the economically disadvantaged rate and the placement rate?

The **economically disadvantaged rate (EDR)**<sup>22</sup> is the following percentage:

#### Key:

- EFC: Expected Family Contribution
- AGI: Adjusted Gross Income
- HHS: U.S. Department of Health and Human Services (For poverty level guidelines, see page 126.)

Your school must use the same 12-month period for calculating both rates.

\*The 13 weeks of employment can include relevant employment any time **after** the student's beginning enrollment date. But the 13 weeks must be completed before the day following 12 months after the student's last day of attendance.

100

X

number of regular students enrolled during the selected\* 12-month period who had an EFC of zero or AGI less than the HHS poverty level [B1]

number of regular students enrolled during the selected\* 12-month period [B2]

#### Note:

\*Information on how to select an acceptable 12-month period is provided on page 96.

The **placement rate (PR)**<sup>23</sup> is the following percentage:

100

X

number of regular students, initially enrolled on at least a half-time basis and originally scheduled to complete their programs during the selected 12-month period who *either*

- (1) were employed in an occupation for which the school provided training on the day following 12 months after their last day of attendance at the school

AND/OR

- (2) were employed in an occupation for which the school provided training for at least 13 weeks\* before the day following 12 months after their last day of attendance [C1]

number of regular students who were initially enrolled on at least half-time basis and were originally scheduled to complete their programs during the selected 12-month period [C2]

22. 34 CFR § 668.17(c)(1)(ii)(B)

23. 34 CFR § 668.17(c)(1)(ii)(B)(2)

To succeed on an exceptional mitigating circumstances appeal on the basis of your school's economically disadvantaged and placement rates, your school must have an economically disadvantaged rate of 70.0 percent or more and a placement rate of 50.0 percent or more.

## How does my school prepare and submit an exceptional mitigating circumstances appeal on the basis of its economically disadvantaged and placement rates to the Department?

### Step 1: Calculate and list data to support your school's economically disadvantaged rate.

- ❖ Use the EDR spreadsheet **FY 1995 Economically Disadvantaged Rate** on page 131 or its equivalent to count and list the students who will be included in the calculation of your school's economically disadvantaged rate. (If you use your own spreadsheet, it must include all of the information shown on the EDR spreadsheet.)
- ❖ On the EDR spreadsheet, fill out your school's name and OPE ID Number.
- ❖ Select an acceptable 12-month period and enter it on the EDR spreadsheet (see page 96 for details on selecting an acceptable 12-month period).
- ❖ Fill out Column 1 of the EDR spreadsheet: **In numerical order**, list the Social Security numbers of all your regular students enrolled during any part of the selected 12-month period.



No student may be counted more than once.

- ❖ Fill out Column 2 of the EDR spreadsheet: For each Social Security number, list the student's name.
- ❖ Fill out Column 3 of the EDR spreadsheet: For each student, provide beginning and ending **enrollment dates**.

Step 1 is to calculate your school's economically disadvantaged rate.

A "regular student" is defined as a person who is enrolled, or accepted for enrollment, in an eligible program at an eligible postsecondary institution for the purpose of obtaining a degree, certificate, or other recognized educational credential offered by that institution as defined in 34 CFR § 600.2.

In your list of "regular students" you must include students who:

- began enrollment before the 12-month period and ended enrollment during or after the 12-month period,  
AND/OR
- began enrollment during the 12-month period and ended enrollment during or after the 12-month period.

An award year begins on July 1 and ends on June 30. The 1992-93 award year began July 1, 1992 and ended June 30, 1993.

An award year “generally coincides” with a 12-month period if they overlap by at least one day.



**Q:** What if a student has an EFC of zero, but the award year does not overlap the 12-month period?

**A:** The student is not considered economically disadvantaged unless he or she has a qualifying AGI that generally coincides with the 12-month period.

A calendar year “generally coincides” with a 12-month period if the calendar year associated with the AGI could have been used to determine a student’s EFC for an award year that “generally coincides” with the 12-month period chosen by the school.

- ❖ Fill out Column 4 of the EDR spreadsheet: If the student was from an economically disadvantaged background during the selected 12-month period, enter X. (If not, leave blank.)
- ❖ If you enter X for a student in Column 4, *either*
  - (1) the student must have an EFC of zero for any award year that generally coincides with the 12-month period,
  - OR
  - (2) the student and, if applicable, his or her parents or spouse must have an adjusted gross income (AGI) less than the Health and Human Services (HHS) poverty levels for any calendar year that generally coincides with the 12-month period. The HHS poverty levels are shown on page 126.
- ❖ To determine whether a student qualifies as economically disadvantaged under the **EFC test**, first identify which award years overlap by at least one day with your school’s selected 12-month period. If the student had a zero EFC in any of the overlapping award years, he or she qualifies as economically disadvantaged. For example:
  - Selected 12-month period: April 2, 1993 to April 1, 1994
  - Acceptable (overlapping) award years: 1992-93 or 1993-94
- ❖ If the student does not qualify based on EFC, he or she may still qualify based on AGI. To determine if the student is economically disadvantaged on the basis of the **AGI test**, identify which calendar years could be used to determine an EFC an award year that “generally coincides” with the selected 12-month period.



If the student and, if applicable, his or her parents or spouse had an AGI below the HHS poverty level in any of the acceptable calendar years, the student qualifies as economically disadvantaged under the AGI test. For example:

- Selected 12-month period: October 1, 1993 to September 30, 1994
- Acceptable (overlapping) award years: 1993-94 or 1994-95
- Acceptable calendar years: 1992, 1993, 1994

- ❖ Fill out Column 5 or Column 6 of the EDR spreadsheet: For each student from a disadvantaged economic background, provide:

#### EITHER

- ❖ the EFC and the award year that generally coincides with the selected 12-month period (in Columns 5a and 5b)

#### OR

- ❖ the AGI, family size, and calendar year that generally coincides with the selected 12-month period (in Columns 6a, 6b, and 6c)

- ❖ Complete Box B by counting the number of Xs that appear in Column 4. The total number of Xs will be **B1** in the calculation. Record this number in Box B on the EDR spreadsheet.
- ❖ Count the total number of students listed in the EDR spreadsheet by counting the number of entries in Column 1. The total number of students will be **B2** in the calculation. Record this number in Box B on the EDR spreadsheet.
- ❖ Calculate  **$100 \times B1 / B2$**  and record the result in Box B on the EDR spreadsheet. **This percentage is your school's economically disadvantaged rate.**



As part of a successful appeal, your school's economically disadvantaged rate must be 70.0 percent or greater.

To determine acceptable calendar years, first determine acceptable award years.

Students with an EFC of zero must have an award year listed on the spreadsheet to be included in the numerator of the calculation.

Students with an AGI that meets the poverty thresholds must have a family size and calendar year listed on the spreadsheet to be included in the numerator of the calculation.

Step 2 is to calculate your school's placement rate.

A "regular student" is defined as a person who is enrolled, or accepted for enrollment, in an eligible program at an eligible postsecondary institution for the purpose of obtaining a degree, certificate, or other recognized educational credential offered by that institution as defined in 34 CFR § 600.2.

## Step 2: Calculate and list data to support your school's placement rate.

- ❖ Use the PR spreadsheet **FY 1995 Placement Rate** located on page 135 or its equivalent to count and list the students who will be included in the calculation of your school's placement rate. (If you use your own spreadsheet, it must include all of the information shown on the PR spreadsheet.)
- ❖ On the PR spreadsheet, fill out your school's name and OPE ID Number.
- ❖ **Enter the same 12-month period as on the Economically Disadvantaged Rate spreadsheet.**
- ❖ Fill out Column 1 of the PR spreadsheet: **In numerical order**, list the Social Security numbers of **all your students who meet the following conditions**:
  - ❖ regular students who were initially enrolled on **at least a half-time basis** at your school,
  - AND
  - ❖ at the time of their enrollment, were originally scheduled to complete their programs during the selected 12-month period,
  - AND
  - ❖ remained in the program beyond the point at which they would have received a 100 percent tuition refund from your school.



No student may be counted more than once.

- ❖ Fill out Column 2 of the PR spreadsheet: For each Social Security number, list the student's name.
- ❖ Fill out Column 3 of the PR spreadsheet: Provide each student's address.
- ❖ Fill out Column 4 of the PR spreadsheet: Provide each student's program of study. Do not use abbreviations.

- ❖ Fill out Column 5 of the PR spreadsheet: Provide the date that each student was originally scheduled, at the time of enrollment, to complete his or her program of study.
  - ❖ If the student was initially enrolled half-time, the **scheduled to complete** date will be based on the amount of time it would take the student to complete the program if he or she remained enrolled half-time.
  - ❖ If the student was initially enrolled full-time, the **scheduled to complete** date will be based on the amount of time normally required by a full-time student to complete the program, as specified in the school's enrollment contract, catalog, or other materials.
- ❖ Fill out Column 6 of the PR spreadsheet: For each student, provide beginning and ending **enrollment dates**.
- ❖ Fill out Column 7 of the PR spreadsheet: If the student was successfully placed in employment according to at least one of the following two conditions, enter X. (If not, do not make an entry.)

(1) A student is successfully placed if he or she is employed in an occupation for which your school provided training on the day following 12 months after the date of the student's last day of attendance at your school.

OR

(2) A student is successfully placed if he or she was employed in an occupation for which your school provided training for at least 13 weeks\* before the day following 12 months after the date of the student's last day of attendance at your school.



A student **cannot** be counted as successfully placed according to either of these two conditions if your school is the employer.<sup>24</sup>

All dates included in the PR spreadsheet must include month, day, and year.

\*The 13 weeks of employment can include relevant employment any time **after** the student's beginning enrollment date. But the 13 weeks must be completed before the day following 12 months after the student's last day of attendance.

24. 34 CFR § 668.17(c)(1)(ii)(B)(2)

If the Department cannot verify a student's successful placement on the basis of the information your school provides, the student will be removed from the count of successfully placed students.

- ❖ Fill out Column 8 of the PR spreadsheet: For each student successfully placed, provide the **beginning and ending dates** of the employment that qualifies as successfully placed.
- ❖ Fill out Column 9 of the PR spreadsheet: For each student successfully placed, provide the student's **job title** in the employment that qualifies as successful placement.
- ❖ Fill out Column 10 of the PR spreadsheet: For each student successfully placed, provide the **name, address, and telephone number** of the **employer** with which the student was successfully placed.



If the employer's place of business is closed, you must provide the Department with a notarized statement from the student verifying the place of employment, job title, and dates of employment.

- ❖ Complete Box C by counting the number of Xs that appear in Column 7. The total number of Xs will be **C1** in the calculation. Record this number in Box C on the PR spreadsheet. This is the number of students who were successfully placed in employment.
- ❖ Count the total number of students listed in the PR spreadsheet by counting the number of entries in Column 1. The total number of students will be **C2** in the calculation. Record this number in Box C on the PR spreadsheet.
- ❖ Calculate  **$100 \times C1/C2$**  and record the result in Box C on the PR spreadsheet. **This percentage is your school's placement rate.**



As part of a successful appeal, your school's placement rate must be 50.0 percent or greater.

**Step 3: Submit your school's properly completed exceptional mitigating circumstances appeal on the basis of economically disadvantaged and placement rates.**

- ❖ Within **30 calendar days** of your school receiving notification of its initial or extended loss of FFEL Program and/or Direct Loan Program eligibility, mail your school's exceptional mitigating circumstances appeal to the Department.
- ❖ The Department recommends that your school submit its properly completed exceptional mitigating circumstances appeal in a single, tabbed binder, and mail it return receipt requested. Here are the recommended tabs and materials:



The Department recommends sending all correspondence return receipt requested.

The section behind Tab 1 contains:

**Tab 1**

- ❖ A letter on your school's letterhead with—
  - ❖ your school's OPE ID number;
  - ❖ a statement indicating that your school is submitting an exceptional mitigating circumstances appeal based on your economically disadvantaged rate and your placement rate;
  - ❖ the fiscal year to which the appeal applies;

**AND**

  - ❖ your school's President/CEO/Owner's certification, under penalty and perjury, that all information in the appeal is correct.
    - Your school's President/CEO/Owner's signature must be followed by a signature block providing the signer's name and job title.

(See sample letter **FY 1995 Exceptional Mitigating Circumstances Appeal on the Basis of Economically Disadvantaged and Placement Rates**, located at the end of this section on page 127.)

The section behind Tab 2 contains:

**Tab 2**

- ❖ A completed EDR spreadsheet with a list of all students used to calculate your economically disadvantaged rate. (Use spreadsheet **FY 1995 Economically Disadvantaged Rate**, located at the end of this section on page 131, or its equivalent.)

The section behind Tab 3 contains:

**Tab 3**

- ❖ A completed PR spreadsheet with a list of all students used to calculate your placement rate. (Use spreadsheet **FY 1995 Placement Rate**, located at the end of this section on page 135, or its equivalent.)

More information on the auditor's attestation is provided on page 98.



The Department recommends sending all correspondence return receipt requested.

#### Step 4: Submit an independent auditor's attestation.

- ❖ Within **60 calendar days** of your school receiving notification of its initial or extended loss of FFEL Program and/or Direct Loan Program eligibility, mail an independent auditor's attestation of your school's exceptional mitigating circumstances appeal on the basis of its economically disadvantaged and placement rates to the Department.
- ❖ The attestation should be in the form of a letter on the independent auditor's letterhead with—
  - ❖ your school's name;
  - ❖ your school's OPE ID number;
  - ❖ the fiscal year to which the appeal applies;
  - ❖ an opinion on management's assertion that the information contained in the appeal is complete, accurate, and determined in accordance with the Department's regulations in 34 CFR § 668.17 (c) (1) (ii);

AND

- ❖ the letter should be signed by the independent auditor, followed by a signature block providing the signer's name and job title.

(See sample letter **Independent Accountant's Attestation Report for Exceptional Mitigating Circumstances Appeal on the Basis of FY 1995 Economically Disadvantaged and Placement Rates**, located at the end of this section on page 136.)



If a school fails to meet the regulatory time frames for the appeal and/or attestation, the Department will NOT review its appeal.<sup>25</sup>

**If sent by commercial overnight mail/courier delivery, send your school's exceptional mitigating circumstances appeal to:**

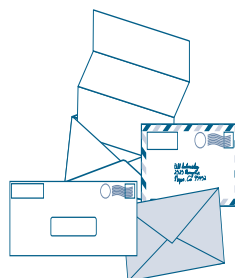


U.S. Department of Education  
Default Management Division  
ATTN: Exceptional Mitigating  
Circumstances Appeals  
ROB-3, Room 5125  
7th and D Streets, SW  
Washington, DC 20202

For entry into the building, call  
202/708-6048

**If sent by U.S. Postal Service, send your school's exceptional mitigating circumstances appeal to:**

U.S. Department of Education  
Default Management Division  
ATTN: Exceptional Mitigating  
Circumstances Appeals  
ROB-3, Room 5125  
600 Independence Avenue, SW  
Washington, DC 20202-5353



The Department accepts deliveries from commercial couriers and/or hand deliveries on Monday through Friday, 8:00 a.m. to 4:30 p.m. (Eastern Time).



The Department recommends sending all correspondence return receipt requested.

25. 34 CFR § 668.17(c)(1) and (c)(7)

U.S. Department of Health and Human Services Poverty Levels Based on Family Size			
State	Year	Family Size	
		One person	Each additional person
Alaska	1991	\$8,290	+\$2,820
	1992	\$8,500	+\$2,980
	1993	\$8,700	+\$3,080
	1994	\$9,200	+\$3,100
Hawaii	1991	\$7,610	+\$2,600
	1992	\$7,830	+\$2,740
	1993	\$8,040	+\$2,820
	1994	\$8,470	+\$2,850
All Other States	1991	\$6,620	+\$2,260
	1992	\$6,810	+\$2,380
	1993	\$6,970	+\$2,460
	1994	\$7,360	+\$2,480





# Our Town A&M University

1212 Tiger Lane  
Any Town, Any State 00000-0000  
(000) 000-0000

December 5, 1997

## Sample Letter

U.S. Department of Education  
Default Management Division  
ATTN: Exceptional Mitigating Circumstances Appeals  
ROB-3, Room 5125  
600 Independence Avenue, SW  
Washington, DC 20202-5353

**Subject: FY 1995 Exceptional Mitigating Circumstances Appeal on the Basis of Economically Disadvantaged and Placement Rates**

To Whom It May Concern:

Our Town A&M University, OPE ID 001100, is submitting its FY 1995 exceptional mitigating circumstances appeal based on our economically disadvantaged and placement rates.

I, the undersigned, certify under penalty of perjury, that our economically disadvantaged rate is XX.X%, our placement rate is YY.Y%, and that all other information submitted in support of this exceptional mitigating circumstances appeal is true and correct.

Sincerely,

*Rain E. Forrest*

Rain E. Forrest, President  
Our Town A&M University

Enclosures



# Appealing Exceptional Mitigating Circumstances on the Basis of an Economically Disadvantaged Rate

## How to fill out FY 1995 Economically Disadvantaged Rate spreadsheet

Count and list the students who will be included in the calculation of your school's economically disadvantaged rate to the U.S. Department of Education (the Department) using a spreadsheet software application such as Lotus 1-2-3, Supercalc, or Excel. The resulting spreadsheet must be sent to the Department.

The spreadsheet width should be on one page in a landscape (horizontal) layout. A sample spreadsheet follows these instructions.

Header:

Enter **FY 1995 Economically Disadvantaged Rate** in the center of the header area. In the left-hand area, enter your school's name, your school's OPE ID number, and your school's selected 12-month period.



**You must select a 12-month period that has a start date NO EARLIER THAN April 2, 1993 and NO LATER THAN October 1, 1993.**

Footer:

Enter the date the appeal was prepared in the left side of the footer area. Set up automatic pagination in the right side of the footer area so that the specific pages and the total number of page numbers show on each page, for example: page 1 of 10 pages.

On Rows 1, 2, 3, and 4 use the draw tool to draw a rectangle covering lines A1 to F4. Using the text-box tool, draw another box for **Box B** information. In this box, enter the number of economically disadvantaged students (from Column 4) [B1], the number of regular students (listed in Column 1) [B2], and your school's economically disadvantaged rate [100 x B1/B2]. (Use a row height of 15.)

On Row 5, enter **exactly** the same column name in **exactly** the same order as listed on the sample spreadsheet. (Use a row height of 60.)

On Row 6 and below, include the following data in the header for each student who will be included in calculating your school's economically disadvantaged rate. (Use a row height of 15.)

Column 1:

Enter the student's Social Security number using hyphens to separate the numbers (example: 000-88-000) of all of your regular students who were enrolled during the selected 12-month period. Sort by numerical order when ready to print the spreadsheet.

Column 2:

Enter the student's name.

Column 3:

Enter MM/DD/YY (month, day, and year) to identify the beginning and ending enrollment dates.

Column 4:

Enter X if student was from a disadvantaged economic background during the selected 12-month period. Leave blank if student was not economically disadvantaged.

Appealing Exceptional Mitigating Circumstances on the  
Basis of an Economically Disadvantaged Rate  
How to fill out FY 1995 Economically Disadvantaged Rate spreadsheet (cont'd)

<b>Column 5 or 6:</b>	<p>Fill out Column 5 <b>or</b> Column 6 of the spreadsheet: For each student from a disadvantaged economic background, provide:</p> <p><b>EITHER</b></p> <ul style="list-style-type: none"><li>◆ the EFC and the award year that generally coincide with the selected 12-month period (in Columns 5a and 5b)</li></ul> <p><b>OR</b></p> <ul style="list-style-type: none"><li>◆ the AGI, family size, and calendar year that generally coincide with the selected 12-month period (in Columns 6a, 6b, and 6c)</li></ul>	<div><b>Instructions for Box B (located in the shaded area) :</b></div> <ul style="list-style-type: none"><li>◆ Count the number of X's that appear in Column 4. This is B1 in the calculation.</li><li>◆ Count the number of students listed in Column 1. The total number of students will be <b>B2</b> in the calculation.</li><li>◆ Calculate <b>100 x B1/B2</b> and record the result in Box B on the EDR spreadsheet. <b>This percentage is your school's economically disadvantaged rate.</b></li></ul>
---------------------------	---	--





# Appealing Exceptional Mitigating Circumstances

## on the Basis of Placement Rate

### How to fill out FY 1995 Placement Rate spreadsheet

Count and list the students who will be included in the calculation of your school's placement rate to the U.S. Department of Education (the Department) using a spreadsheet software application such as Lotus 1-2-3, Supercalc, or Excel. The resulting spreadsheet must be sent to the Department.

The spreadsheet width should be on one page in a landscape (horizontal) layout. A sample spreadsheet follows these instructions.

**Header:** Enter **FY 1995 Placement Rate** in the center of the header area. In the left-hand area, enter your school's name, your school's OPE ID number, and your school's selected 12-month period.

You must select the same 12-month period as on the economically disadvantaged spreadsheet.



**Footer:** Enter the date the appeal was prepared in the left side of the footer area. Set up automatic pagination in the right side of the footer area so that the specific pages and the total number of page numbers show on each page, for example: page 1 of 10 pages.

On Rows 1, 2, 3, and 4 use the draw tool to draw a rectangle covering lines A1 to J4. Using the text-box tool, draw another box for **Box C** information. In this box, enter the number of students successfully placed (from Column 7) [C1], the number of entries listed in Column 1 [C2], and your school's placement rate [100 x C1/C2]. (Use a row height of 15.)

On Row 5, enter **exactly** the same column name in **exactly** the same order as listed on the sample spreadsheet. (Use a row height of 60.)

On Row 6 and below, include the following data in the header for each student who will be included in calculating your school's placement rate. (Use a row height of 15.)

**Column 1:** Enter the student's Social Security number using hyphens to separate the numbers (example: 000-88-000) of all of your regular students who meet the conditions identified on page 120. Sort by numerical order when ready to print the spreadsheet.

**Column 2:** Enter the student's name.

**Column 3:** Enter each student's address.

**Column 4:** Enter each student's program of study. Do not use abbreviations.

**Column 5:** Enter MM/DD/YY (month, day, and year) to identify the date that each student was originally scheduled, at the time of enrollment, to complete his or her program of study.

**Column 6:** Enter MM/DD/YY (month, day, and year) to identify the beginning and ending dates of the student's enrollment.

# Appealing Exceptional Mitigating Circumstances

## on the Basis of Placement Rate

### How to fill out FY 1995 Placement Rate spreadsheet (cont'd)

Column 7:

Enter X if the student was successfully placed in employment according to at least one of the following two conditions. Leave blank if at least one condition was not met.

(1) A student is successfully placed if he or she is employed in an occupation for which your school provided training on the day following 12 months after the date of the student's last day of attendance at your school,

OR

(2) A student is successfully placed if he or she was employed in an occupation for which your school provided training for at least 13 weeks before the day following 12 months after the date of the student's last day of attendance at your school.



A student cannot be counted as successfully placed according to either of these two conditions if your school is the employer.

Column 8:

Enter the MM/DD/YY to identify the beginning and ending dates of the employment that qualifies as successful placement. (If the student is still employed by the same employer, enter MM/DD/YY to present.)

Column 9:

Enter the student's job title in the employment that qualifies as successful placement. Do NOT use abbreviations.

Column 10:

Enter the name, address, and telephone number of the employer with which the student was successfully placed.

#### Instructions for Box C (located in the shaded area):

- ◆ Count the number of Xs that appear in Column 7.  
The total number of Xs will be **C1** in the calculation. Record this number in **Box C** on the PR spreadsheet. This is the number of students who were successfully placed in employment.
- ◆ Count the number of students listed in the PR spreadsheet by counting the number of entries in Column 1. The total number of students will be **C2** in the calculation. Record this number in **Box C** in the PR spreadsheet.
- ◆ Calculate **100 x C1/C2** and record the result in **Box C** on the PR spreadsheet. **This percentage is your placement rate.**



**NOTE:** This is a sample spreadsheet.  
(See instructions.)

**FY 1995  
Placement Rate**

[illegible]



# GLOBAL ACCOUNTING, INC.

1212 World Street  
Any Town, Any State 00000-0000  
(000) 000-0000

U.S. Department of Education  
Default Management Division  
ATTN: Exceptional Mitigating Circumstances Appeals  
ROB 3, Room 5125  
600 Independence Avenue, SW  
Washington, DC 20202-5353

December 15, 1997

## Sample Letter

**Subject: Independent Accountant's Attestation Report for Exceptional Mitigating Circumstances Appeal on the Basis of Economically Disadvantaged and Placement Rates.**

To Whom It May Concern:

We have examined management's assertion included in its representation letter dated, [give date], stating that the information contained in Our Town A&M University's (OPE ID 001100) exceptional mitigating circumstances appeal based on its economically disadvantaged and placement rates, is complete, accurate and determined in accordance with the requirements of 34 CFR § 668.17(c). As discussed in that representation letter, management is responsible for Our Town A&M University's compliance with those requirements. Our responsibility is to express an opinion on management's assertion about the institution's compliance based on our examination.

Our examination was made in accordance with standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence about Our Town A&M University's compliance with 34 CFR § 668.17(c) and performing such other procedures as we considered necessary in the circumstances. We believe our examination provides a reasonable basis for our opinion. Our examination does not provide a legal determination on Our Town A&M University's compliance with specified requirements.

In our opinion, management's assertion that the information contained in Our Town A&M University's appeal, dated [give date] which reports that Our Town A&M University has an economically disadvantaged rate of **XX.X** % and a placement rate of **(YY.Y%)** for the twelve-month period beginning on **MM/DD/YY** and ending on **MM/DD/YY** is complete, accurate, and determined in accordance with the requirements set forth in 34 CFR § 668.17(c), is fairly stated, in all material respects.

This report is intended solely for the information of an audit committee, management, and the U.S. Department of Education. However, this report is a matter of public record and its distribution is not limited.

Respectfully submitted,

***Storm E. Petrel***

Storm E. Petrel, CPA  
President, Global Accounting, Inc.

# ***Economically Disadvantaged and Completion Rates Criteria***

## **QUALIFYING**

To file an exceptional mitigating circumstances appeal on the basis of **economically disadvantaged and completion rates**, your school must:

- ❖ be a degree-granting school,<sup>26</sup>

AND

- ❖ demonstrate that 70.0 percent or more of its regular students enrolled during a selected 12-month period were individuals who came from **disadvantaged economic backgrounds**,<sup>27</sup>

AND

- ❖ demonstrate that 70.0 percent or more of its regular students who were initially enrolled on a full-time basis and who were originally scheduled to complete their programs during the same 12-month period either:
  - received degrees, or
  - transferred to higher level programs, or
  - at the end of the 12-month period, remained enrolled and were making satisfactory academic progress (SAP) toward completion of their educational programs.<sup>28</sup>

The checklist on the next page summarizes the eligibility criteria for an exceptional mitigating circumstances appeal on the basis of economically disadvantaged and completion rates. Review the checklist to determine your school's eligibility to appeal on the basis of exceptional mitigating circumstances.

A school must select a 12-month period that has a start date that is **no earlier than April 2, 1993 and no later than October 1, 1993**.

See page 96 for further information on selecting a 12-month period.

If you are not sure whether your school is classified as a degree-granting or non-degree-granting school, please refer to your school's Eligibility and Certification Approval Report generated by the Department's Case Management Division. The telephone number for the Case Management Division is 202-205-0183.

26. 34 CFR § 668.17(c)(1)(ii)(B)(1)

27. 34 CFR § 668.17(c)(1)(ii)(B)

28. 34 CFR § 668.17(c)(1)(ii)(B)(1)



## Exceptional Mitigating Circumstances Appeal on the Basis of Economically Disadvantaged and Completion Rates Eligibility Checklist

These appeal criteria are only  
for degree-granting schools.

To be eligible to appeal on the basis of its students' economically disadvantaged rate and completion rate, your school must meet the following criteria:

- ☐ Your school is subject to either of these sanctions—
  - ☐ initial FFEL Program/Direct Loan Program loss
  - OR
  - ☐ extended FFEL Program/Direct Loan Program loss
- ☐ Your school is a **degree-granting** school that—
  - ☐ enrolls 70.0 percent or more of its students from disadvantaged economic backgrounds as described in 34 CFR § 668.17(c) (1) (ii) (B)
  - AND
  - ☐ can demonstrate that 70.0 percent or more of its students completed their programs as defined in 34 CFR § 668.17(c) (1) (ii) (B) (1)

## SUBMITTING

### How do I calculate the economically disadvantaged rate and the completion rate?

The **economically disadvantaged rate (EDR)**<sup>29</sup> is the following percentage:

100

X

number of regular students enrolled during the selected\* 12-month period who had an EFC of zero or AGI less than the HHS poverty level [B1]

number of regular students enrolled during the selected\* 12-month period [B2]



**Note:** \*Information on how to select an acceptable 12-month period is on page 96.

#### Key:

- EFC: Expected Family Contribution
- AGI: Adjusted Gross Income
- HHS: U.S. Department of Health and Human Services (For poverty level guidelines, see page 126).

The **completion rate (CR)**<sup>30</sup> is the following percentage:

100

X

number of regular students, initially enrolled on a full-time basis and originally scheduled to complete their programs during the selected 12-month period, who *either*:

- (1) received degrees, *or*
- (2) transferred to higher level programs, *or*
- (3) at the end of the 12-month period, remained enrolled and were making satisfactory academic progress toward completion of their educational programs [D1]

number of regular students who were initially enrolled on a full-time basis and were originally scheduled to complete their programs during the selected 12-month period [D2]

Your school must use the same 12-month period calculating both rates.

29. 34 CFR § 668.17(c)(1)(ii)(B)

30. 34 CFR § 668.17(c)(1)(ii)(B)(1)

To succeed on an exceptional mitigating circumstances appeal on the basis of your school's economically disadvantaged and completion rates, your school must have an economically disadvantaged rate of 70.0 percent or greater and a completion rate of 70.0 percent or greater.

## How does my school prepare and submit an exceptional mitigating circumstances appeal on the basis of its economically disadvantaged and completion rates to the Department?

Step 1 is to calculate your school's economically disadvantaged rate.

A "regular student" is defined as a person who is enrolled, or accepted for enrollment, in an eligible program at an eligible postsecondary institution for the purpose of obtaining a degree, certificate, or other recognized educational credential offered by that institution as defined in 34 CFR § 600.2.

In your list of "regular students" you must include students who:

- began enrollment before the 12-month period and ended enrollment during or after the 12-month period,
- AND/OR
- began enrollment during the 12-month period and ended enrollment during or after the 12-month period.

### Step 1: Calculate and list data to support your school's economically disadvantaged rate.

- ❖ Use the EDR spreadsheet **FY 1995 Economically Disadvantaged Rate** on page 153 or its equivalent to count and list the students who will be included in the calculation of your school's economically disadvantaged rate. (If you use your own spreadsheet, it must include all of the information shown on the EDR spreadsheet.)
- ❖ On the EDR spreadsheet, fill out your school's name and OPE ID Number.
- ❖ Select an acceptable 12-month period and enter it on the EDR spreadsheet (see page 96 for details on selecting an acceptable 12-month period).
- ❖ Fill out Column 1 of the EDR spreadsheet: **In numerical order**, list the Social Security numbers of all your regular students enrolled during any part of the selected 12-month period.



No student may be counted more than once.

- ❖ Fill out Column 2 of the EDR spreadsheet: For each Social Security number, list the student's name.
- ❖ Fill out Column 3 of the EDR spreadsheet: For each student, provide beginning and ending **enrollment dates**.

- ❖ Fill out Column 4 of the EDR spreadsheet: If the student was from an economically disadvantaged background during the selected 12-month period, enter X. (If not, leave blank.)
- ❖ If you enter X for a student in Column 4, *either*
  - (1) the student must have an EFC of zero for any award year that generally coincides with the 12-month period,
  - OR*
  - (2) the student and, if applicable, his or her parents or spouse must have an adjusted gross income (AGI) less than the Health and Human Services (HHS) poverty levels for any calendar year that generally coincides with the 12-month period. The HHS poverty levels are shown on page 126.
- ❖ To determine whether a student qualifies as economically disadvantaged under the **EFC test**, first identify which award years overlap by at least one day with your school's selected 12-month period. If the student had a zero EFC in any of the overlapping award years, he or she qualifies as economically disadvantaged. For example:
  - Selected 12-month period: April 2, 1993 to April 1, 1994
  - Acceptable (overlapping) award years: 1992-93 or 1993-94
- ❖ If the student does not qualify based on EFC, he or she may still qualify based on AGI. To determine if the student is economically disadvantaged on the basis of the **AGI test**, identify which calendar years could be used to determine an EFC for an award year that "generally coincides" with the selected 12-month

An award year begins on July 1 and ends on June 30. The 1992-93 award year began July 1, 1992 and ended June 30, 1993.

A award year "generally coincides" with a 12-month period if they overlap by at least one day.



**Q:** What if a student has an EFC of zero, but the award year does not overlap the 12-month period?

**A:** The student is not considered economically disadvantaged unless he or she has a qualifying AGI that generally coincides with the 12-month period.

A calendar year "generally coincides" with a 12-month period if the calendar year associated with the AGI could have been used to determine a student's EFC for an award year that "generally coincides" with a 12-month period chosen by the school.

To determine acceptable calendar years, first determine acceptable award years.

Students with an EFC of zero must have an award year listed on the spreadsheet to be included in the numerator of the calculation.

Students with an AGI that meets the poverty thresholds must have a family size and calendar year listed on the spreadsheet to be included in the numerator of the calculation.

period. If the student and, if applicable, his or her parents or spouse had an AGI below the HHS poverty level in any of the acceptable calendar years, the student qualifies as economically disadvantaged under the AGI test. For example:

- Selected 12-month period: October 1, 1993 to September 30, 1994
- Acceptable (overlapping) award years: 1993-94 or 1994-95
- Acceptable calendar years: 1992, 1993, or 1994

- ❖ Fill out Column 5 or Column 6 of the EDR spreadsheet: For each student from a disadvantaged economic background, provide:

#### EITHER

- ❖ the EFC and the award year that generally coincides with the selected 12-month period (in Columns 5a and 5b)

#### OR

- ❖ the AGI, family size, and calendar year that generally coincides with the selected 12-month period (in Columns 6a, 6b, and 6c)

- ❖ Complete Box B by counting the number of Xs that appear in Column 4. The total number of Xs will be **B1** in the calculation. Record this number in Box B on the EDR spreadsheet.
- ❖ Count the total number of students listed in the EDR spreadsheet by counting the number of entries in Column 1. The total number of students will be **B2** in the calculation. Record this number in Box B on the EDR spreadsheet.
- ❖ Calculate  $100 \times B1 / B2$  and record the result in Box B on the EDR spreadsheet. **This percentage is your school's economically disadvantaged rate.**



As part of a successful appeal, your school's economically disadvantaged rate must be 70.0 percent or greater.



## Step 2: Calculate and list data to support your school's completion rate.

- ❖ Use the CR spreadsheet **FY 1995 Completion Rate**, located on page 157 or an equivalent to count and list the students who will be included in the calculation of your school's completion rate. (If you use your own spreadsheet, it must include all of the information shown on the CR spreadsheet.)
- ❖ On the CR spreadsheet, fill out your school's name and OPE ID Number.
- ❖ Enter the same 12-month period as on the **Economically Disadvantaged Rate** spreadsheet.
- ❖ Fill out Column 1 of the CR spreadsheet: **In numerical order**, list the Social Security numbers of **all your students who meet the following conditions**:
  - ❖ regular students who were initially enrolled on a **full-time basis** at your school

AND

- ❖ at the time of their enrollment, were originally scheduled to complete\* their programs during the selected 12-month period.



No student may be counted more than once.

- ❖ Fill out Column 2 of the CR spreadsheet: For each Social Security number, list the student's name.
- ❖ Fill out Column 3 of the CR spreadsheet: Provide each student's program of study. Do not use abbreviations.
- ❖ Fill out Column 4 of the CR spreadsheet: Provide the date that each student was originally scheduled, at the time of enrollment, to complete his or her program of study.

Step 2 is to calculate your school's completion rate.

A "regular student" is defined as a person who is enrolled, or accepted for enrollment, in an eligible program at an eligible postsecondary institution for the purpose of obtaining a degree, certificate, or other recognized educational credential offered by that institution as defined in 34 CFR § 600.2.

\*The "scheduled to complete" date will be based on the amount of time normally required by a full-time student to complete the program as specified in the school's enrollment contract, catalog, or other materials. See 34 CFR § 668.17(c)(2)

All dates included in the CR spreadsheet must include month, day, and year.

- ❖ The “**scheduled to complete**” date will be based on the amount of time normally required by a full-time student to complete the program, as specified in the school’s enrollment contract, catalog, or other materials.<sup>31</sup>
- ❖ Fill out Column 5 of the CR spreadsheet: For each student, provide beginning and ending **enrollment dates**.
- ❖ Fill out Column 6 of the CR spreadsheet: If the student meets one of the following three **successful completion** conditions, enter X. (If not, leave blank.)
  - (1) The student received a degree at your school.
  - OR
  - (2) The student transferred from your school to a higher level educational program.
  - OR
  - (3) The student remained enrolled at your school at the end of the 12-month period and was making satisfactory academic progress (SAP) toward completion of his or her educational program.
- ❖ Fill out Column 7 of the CR spreadsheet: If a student received a degree from your school, provide the **date the degree was received**.
- ❖ Fill out Column 8a of the CR spreadsheet: If a student transferred to a higher level educational program, provide the **date the student transferred**.
- ❖ Fill out Column 8b of the CR spreadsheet: For each student listed in Column 8a, provide the **name and address of the school to which he or she transferred**.
- ❖ Fill out Column 8c of the CR spreadsheet: For each student listed in Column 8a, provide the **name of the higher level educational program to which he or she transferred**. Do not use abbreviations.

---

31. 34 CFR § 668.17(c)(2)

- ❖ Fill out Column 9 of the CR spreadsheet: For each student who at the end of the selected 12-month period remained enrolled and was making satisfactory academic progress, enter X.
- ❖ Complete Box D by counting the number of Xs that appear in Column 6. The total number of Xs will be **D1** in the calculation. Record this number in Box D on the CR spreadsheet. This is the number of students who have successfully met completion conditions.
- ❖ Count the total number of students listed in the CR spreadsheet by counting the number of entries in Column 1. The total number of students will be **D2** in the calculation. Record this number in Box D on the CR spreadsheet. This is the number of students originally scheduled to complete their programs during the selected 12-month period.
- ❖ Calculate  **$100 \times D1 / D2$**  and record the result in Box D on the CR spreadsheet. **This percentage is your completion rate.**



As part of a successful appeal, your completion rate must be 70.0 percent or greater.

**Step 3: Submit your properly completed exceptional mitigating circumstances appeal on the basis of economically disadvantaged and completion rates.**

- ❖ Within **30 calendar days** of your school receiving notification of its initial or extended loss of FFEL Program and/or Direct Loan Program eligibility, mail your exceptional mitigating circumstances appeal to the Department.



The Department recommends sending all correspondence return receipt requested.

- ◆ The Department recommends that your school submit its properly completed exceptional mitigating circumstances appeal in a single, tabbed report binder, and mail it return receipt requested. Here are the recommended tabs and materials:

The section behind Tab 1 contains:

Tab 1

- ◆ A letter on your school's letterhead with—
  - ◆ your school's OPE ID number;
  - ◆ a statement indicating that your school is submitting an exceptional mitigating circumstances appeal on the basis of your economically disadvantaged rate and your completion rate;
  - ◆ the fiscal year to which the appeal applies;

AND

- ◆ your school's President/CEO/Owner's certification, under penalty of perjury, that all information in the appeal is correct.
  - Your school's President/CEO/Owner's, signature must be followed by a signature block providing the signer's name and job title.

(See sample letter **FY 1995 Exceptional Mitigating Circumstances Appeal on the Basis of Economically Disadvantaged and Completion Rates**, located at the end of this section on page 149.)

The section behind Tab 2 contains:

Tab 2

- ◆ A completed EDR spreadsheet with a list of all students used to calculate your economically disadvantaged rate. (Use spreadsheet **FY 1995 Economically Disadvantaged Rate**, located at the end of this section on page 153, or its equivalent.)

The section behind Tab 3 contains:

Tab 3

- ◆ A completed CR spreadsheet with a list of all students used to calculate your completion rate. (Use spreadsheet **FY 1995 Completion Rate**, located at the end of this section on page 157, or its equivalent.)

**Step 4: Submit an independent auditor's attestation.**

- ❖ Within **60 calendar days** of your school receiving notification of its initial or extended loss of FFEL Program and/or Direct Loan Program eligibility, mail an independent auditor's attestation of your school's exceptional mitigating circumstances appeal on the basis of its economically disadvantaged and completion rates to the Department.
- ❖ The attestation should be in the form of a letter on the independent auditor's letterhead with—
  - ❖ your school's name;
  - ❖ your school's OPE ID number;
  - ❖ the fiscal year to which the appeal applies;
  - ❖ an opinion on management's assertion that the information contained in the appeal is complete, accurate, and determined in accordance with the Department's regulations in 34 CFR § 668.17 (c) (1) (ii).

**AND**

- ❖ The letter should be signed by the independent auditor, followed by a signature block providing the signer's name and job title.

(See sample letter **Independent Accountant's Attestation Report for Exceptional Mitigating Circumstances Appeal on the Basis of FY 1995 Economically Disadvantaged and Completion Rates**, located at the end of this section on page 158.)



If a school fails to meet the regulatory time frames for the appeal and/or attestation, the Department will NOT review its appeal.<sup>32</sup>

More information on the auditor's attestation is provided on page 98.



The Department recommends sending all correspondence return receipt requested.

32. 34 CFR § 668.17(c) (1) and (c) (7)

The Department accepts deliveries from commercial couriers and/or hand deliveries on Monday through Friday, 8:00 a.m. to 4:30 p.m. (Eastern Time).



The Department recommends sending all correspondence return receipt requested.

**If sent by commercial overnight mail/courier delivery, send your school's exceptional mitigating circumstances appeal to:**

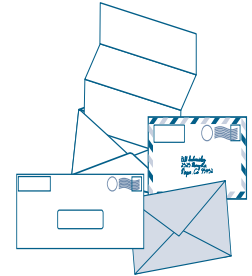


U.S. Department of Education  
Default Management Division  
ATTN: Exceptional Mitigating  
Circumstances Appeals  
ROB-3, Room 5125  
7th and D Streets, SW  
Washington, DC 20202

For entry into the building, call  
202/708-6048

**If sent by U.S. Postal Service, send your school's exceptional mitigating circumstances appeal to:**

U.S. Department of Education  
Default Management Division  
ATTN: Exceptional Mitigating  
Circumstances Appeals  
ROB-3, Room 5125  
600 Independence Avenue, SW  
Washington, DC 20202-5353





# Our Town A&M University

1212 Tiger Lane  
Any Town, Any State 00000-0000  
(000) 000-0000

December 5, 1997

## Sample Letter

U.S. Department of Education  
Default Management Division  
ATTN: Exceptional Mitigating Circumstances Appeals  
ROB-3, Room 5125  
600 Independence Avenue, SW  
Washington, DC 20202-5353

**Subject: FY 1995 Exceptional Mitigating Circumstances Appeal  
on the Basis of Economically Disadvantaged and Completion Rates**

To Whom It May Concern:

Our Town A&M University, OPE ID 001100, is submitting its FY 1995 exceptional mitigating circumstances appeal on the basis of our economically disadvantaged and completion rates.

I, the undersigned, certify under penalty of perjury, that our economically disadvantaged rate is XX.X%, our completion rate is YY.Y%, and that all other information submitted in support of this exceptional mitigating circumstances appeal is true and correct.

Sincerely,

*Rain E. Forrest*

Rain E. Forrest, President  
Our Town A&M University

Enclosures





# Appealing Exceptional Mitigating Circumstances on the Basis of an Economically Disadvantaged Rate

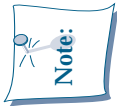
## How to fill out FY 1995 Economically Disadvantaged Rate spreadsheet

Count and list the students who will be included in the calculation of your school's economically disadvantaged rate to the U.S. Department of Education (the Department) using a spreadsheet software application such as Lotus 1-2-3, Supercalc, or Excel. The resulting spreadsheet must be sent to the Department.

The spreadsheet width should be on one page in a landscape (horizontal) layout. A sample spreadsheet follows these instructions.

**Header:**

Enter **FY 1995 Economically Disadvantaged Rate** in the center of the header area. In the left-hand area, enter your school's name, your school's OPE ID number, and your school's selected 12-month period.



**You must select a 12-month period that has a start date NO EARLIER THAN April 2, 1993 and NO LATER THAN October 1, 1993.**

**Footer:**

Enter the date the appeal was prepared in the left side of the footer area. Set up automatic pagination in the right side of the footer area so that the specific pages and the total number of page numbers show on each page, for example: page 1 of 10 pages.

On Rows 1, 2, 3, and 4 use the draw tool to draw a rectangle covering lines A1 to F4. Using the text-box tool, draw another box for **Box B** information. In this box, enter the number of economically disadvantaged students (from Column 4) [B1], the number of regular students (listed in Column 1) [B2], and your school's economically disadvantaged rate [100 x B1/B2]. (Use a row height of 15.)

On Row 5, enter **exactly** the same column name in **exactly** the same order as listed on the sample spreadsheet. (Use a row height of 60.)

On Row 6 and below, include the following data in the header for each student who will be included in calculating your school's economically disadvantaged rate. (Use a row height of 15.)

**Column 1:**

Enter the student's Social Security number using hyphens to separate the numbers (example: 000-88-000) of all of your regular students who were enrolled during the selected 12-month period. Sort by numerical order when ready to print the spreadsheet.

**Column 2:**

Enter the student's name.

**Column 3:**

Enter MM/DD/YY (month, day, and year) to identify the beginning and ending enrollment dates.

**Column 4:**

Enter X if student was from a disadvantaged economic background during the selected 12-month period. Leave blank if student was not economically disadvantaged.

# Appealing Exceptional Mitigating Circumstances on the Basis of Economically Disadvantaged Rate

How to fill out FY 1995 Economically Disadvantaged Rate spreadsheet (cont'd)

Column 5 or 6:

Fill out Column 5 or Column 6 of the spreadsheet: For each student from a disadvantaged economic background, provide:

EITHER

- ◆ the EFC and the award year that generally coincide with the selected 12-month period (in Columns 5a and 5b)

OR

- ◆ the AGI, family size, and calendar year that generally coincide with the selected 12-month period (in Columns 6a, 6b, and 6c)

Instructions for Box B (located in the shaded area):

- ◆ Count the number of X's that appear in Column 4. This is **B1** in the calculation.
- ◆ Count the number of students listed in Column 1. The total number of students will be **B2** in the calculation.
- ◆ Calculate **100 x B1/B2** and record the result in Box B on the EDR spreadsheet. **This percentage is your school's economically disadvantaged rate.**

**NOTE:** This is a sample spreadsheet.  
(See instructions.)

## FY 1995 Economically Disadvantaged Rate

[illegible]

Page \_\_\_\_ of \_\_\_\_ pages



# Appealing Exceptional Mitigating Circumstances on the Basis of Completion Rate

## How to fill out FY 1995 Completion Rate spreadsheet

Count and list the students who will be included in the calculation of your school's completion rate appeal to the U.S. Department of Education (the Department) using a spreadsheet software application such as Lotus 1-2-3, Supercalc, or Excel. The resulting spreadsheet must be sent only to the Department.

The spreadsheet width should be on one page in a landscape (horizontal) layout.

### Header:

Enter **FY 1995 Completion Rate** in the center of the header area. In the left-hand area, enter your school's name, your school's OPE ID number, and the acceptable 12-month period.

You must select the same 12-month period as on the economically disadvantaged spreadsheet.



### Footer:

Enter the date the appeal was prepared in the left side of the footer area. Set up automatic pagination in the right side of the footer area so the specific page number and the total number of page numbers show on each page, for example: page 1 of 10 pages.

On rows 1, 2, 3, and 4 use the draw tool to draw a rectangle covering line A1 to K4. Using the text-box tool draw another box for **Box D** information. In this box, enter the number of students (from column 6) who successfully completed their programs as identified on page 140. [D1], the number of students (reported in column 1) originally scheduled to complete their programs [D2], and your school's completion rate [100 x D1/D2].

On row 5, enter **exactly** the same column name in **exactly** the same order as listed on the sample spreadsheet. (Use a row height of 60.)

On row 6 and below, the following data for the header must be included for each student who will be included in calculating your school's completion rate. (Use a row height of 15.)

**Column 1:** Enter the student's Social Security number using hyphens to separate the numbers (example: 000-88-0000) of all your regular students who meet the conditions identified on page 143. Sort by numerical order when ready to print the spreadsheet.

**Column 2:** Enter the student's name.

**Column 3:** Enter each student's program of study. Do not use abbreviations.

**Column 4:** Enter MM/DD/YY (month/day/year) to identify the date that each student was originally scheduled, at the time of enrollment, to complete his or her program of study.

**Column 5:** Enter MM/DD/YY to identify the beginning and ending enrollment dates.

**Column 6:** Enter X if the student meets one of the following three successful completion conditions. (If not, leave blank.)

(1) The student received a degree at your school.

OR

(2) The student transferred from your school to a higher level educational program.

OR

Appealing Exceptional Mitigating Circumstances

on the Basis of Completion Rate

How to fill out FY 1995 Completion Rate spreadsheet (cont'd)

- Column 7:

(3) The student remained enrolled at your school at the end of the 12-month period and was making satisfactory academic progress (SAP) toward completion of his or her educational program.
- Column 8a:

Enter the date the degree was received for each student who met the successful completion conditions by receiving a degree from your school.
- Column 8b:

Enter the MM/DD/YY to identify the transfer date for each student who met the successful completion conditions by transferring from your school to a higher level educational program.
- Column 8c:

Enter the name and address of the school for each student who transferred from your school to a higher level educational program.
- Column 9:

Enter the name of the higher-level educational program of each student who transferred from your school to a higher level educational program.
- Column 9:

Enter X for each student who met the successful completion conditions by remaining enrolled and maintaining satisfactory academic progress at your school at the end of the selected 12-month period.

Instructions for Box D (located in the shaded area):

- ◆ Count the number of Xs that appear in Column 6. The total number of Xs will be **D1** in the calculation. Record this number in **Box D** on the CR spreadsheet. This is the number of students who were successfully completing their programs.
- ◆ Count the number of students listed in the CR spreadsheet by counting the number of entries in Column 1. The total number of students will be **D2** in the calculation. Record this number in **Box D** in the CR spreadsheet.
- ◆ Calculate **100 x D1/D2** and record the result in **Box D** on the CR spreadsheet. **This percentage is your completion rate.**

**NOTE:** This is a sample spreadsheet.  
(See instructions.)

## FY 1995 Completion Rate

[illegible]



# GLOBAL ACCOUNTING, INC.

1212 World Street  
Any Town, Any State 00000-0000  
(000) 000-0000

## Sample Letter

U.S. Department of Education  
Default Management Division  
ATTN: Exceptional Mitigating Circumstances Appeals  
ROB 3, Room 5125  
600 Independence Avenue, SW  
Washington, DC 20202-5353

December 15, 1997

**Subject: Independent Accountant's Attestation Report for Exceptional Mitigating Circumstances Appeal on the Basis of Economically Disadvantaged and Completion Rates.**

To Whom It May Concern:

We have examined management's assertion included in its representation letter, dated [give date], that the information contained in Our Town A&M University's (OPE ID 001100), exceptional mitigating circumstances appeal based on its economically disadvantaged and completion rates, is complete, accurate and determined in accordance with the requirements of 34 CFR § 668.17(c). As discussed in that representation letter, management is responsible for Our Town A&M University's compliance with those requirements. Our responsibility is to express an opinion on management's assertion about the institution's compliance based on our examination.

Our examination was made in accordance with standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence about Our Town A&M University's compliance with 34 CFR § 668.17(c) and performing such other procedures as we considered necessary in the circumstances. We believe our examination provides a reasonable basis for our opinion. Our examination does not provide a legal determination on Our Town A&M University's compliance with specified requirements.

In our opinion, management's assertion that the information contained in Our Town A&M University's appeal, dated [give date] which reports that Our Town A&M University has an economically disadvantaged rate of **XX.X** % and a completion rate of **YY.Y**% for the twelve-month period beginning on **MM/DD/YY** and ending on **MM/DD/YY** is complete, accurate, and determined in accordance with the requirements set forth in 34 CFR § 668.17(c), is fairly stated, in all material respects.

This report is intended solely for the information of an audit committee, management, and the U.S. Department of Education. However, this report is a matter of public record and its distribution is not limited.

Respectfully submitted,

**Storm E. Petrel**

Storm E. Petrel, CPA  
President, Global Accounting, Inc.



# Withdrawing an Appeal

## BACKGROUND

If a school decides not to continue with an appeal, it may withdraw from the appeal process. It is important, however, that the school notify the Department and send a courtesy copy (cc) to the involved guaranty agencies and/or Direct Loan servicer when it is withdrawing an appeal.



**Note:**

An appeal is withdrawn in its entirety, not on an agency-by-agency or servicer-by-servicer basis.

## Why would my school want to withdraw an appeal?

At various stages of the appeal process, your school may evaluate whether it is useful to continue with an appeal. For instance, after reviewing a guaranty agency and/or Direct Loan servicer's response to a list of alleged errors, a school might decide NOT to proceed with an appeal because it would not significantly change its official cohort default rate.



**Note:**

To submit an **erroneous data appeal** to the Department, your school's erroneous data appeal (or a combination of its erroneous data and loan servicing appeals) **must reduce** its official cohort default rate to below 25.0 percent.<sup>1</sup> Your school should withdraw its appeal if the appeal or combined appeals would not reduce its rate to below 25.0 percent.

1. 34 CFR § 668.17(c)(1)(i)(B)

## TIMING

### When should my school notify the Department about withdrawing an appeal during the early stages of the appeal process?

If your school is withdrawing one or more of its appeals in the early stages of the appeal process (usually as a result of receiving a final response from a guaranty agency or Direct Loan servicer), please follow this timetable:

- ◆ When withdrawing an **erroneous data appeal**, notify the Department within **5 working days** of receiving the **final response** to your school's list of alleged errors from ALL relevant guaranty agencies and/or the Direct Loan servicer.

**Example:** After reviewing the response from the Direct Loan servicer, Our Town College (OTC) determined that there were no errors in its FY 1995 official backup data and that its 27.2 percent official cohort default rate was accurate. Within 5 working days of receiving the response from the Direct Loan servicer, OTC wrote the Department that it was withdrawing its FY 1995 erroneous data appeal; simultaneously it sent a courtesy copy (cc) of the withdrawal letter to the Direct Loan servicer.

- ◆ When withdrawing an **improper loan servicing and collection appeal**, notify the Department within **30 calendar days** of receiving the **final response** to your school's request for loan servicing records from ALL guaranty agencies.

**Example:** State Technical College (STC) reviewed the loan servicing records provided by the involved guaranty agencies and discovered that all the loans were properly serviced in accordance with 34 CFR § 668.17(h)(3)(viii). Within 30 calendar days of receiving all of the requested loan servicing records from the final guaranty agency, STC wrote to the Department that it was withdrawing its FY 1995 loan servicing appeal. Simultaneously, it sent a courtesy copy (cc) of the withdrawal letter to the involved guaranty agencies.



**Q:** If my school withdraws its appeal, will the Department return the appeal materials the school sent?

**A:** Yes, the Department will acknowledge your school's appeal withdrawal, in writing, and return your school's appeal materials.

- ❖ When withdrawing an **exceptional mitigating circumstances appeal** before an auditor or your school has submitted a timely attestation, notify the Department within **60 calendar days** of the date your school received its official cohort default rate backup data.

**Example:** State Community College (SCC) submitted an exceptional mitigating circumstances appeal to the Department within the required 30-calendar-day time frame. SCC then submitted its appeal to an independent auditor for certification. The auditor found that management made material misstatements and that the school did NOT meet exceptional mitigating circumstances thresholds. Within 60 calendar days, SCC wrote to the Department that the school was withdrawing its FY 1995 exceptional mitigating circumstances appeal.

## When should my school notify the Department about withdrawing an appeal after the completed appeal has been submitted?

Your school may withdraw its appeal at any time until the Department issues a decision on the appeal. Simply notify the Department, in writing. Your school should send a courtesy copy (cc) of the letter to the involved guaranty agencies and/or Direct Loan servicer.

## SUBMITTING

### How does my school withdraw an appeal?

If your school decides that it no longer wishes to appeal, it should notify the Department, in writing, by sending:

- ❖ A letter on your school's letterhead stating—
  - ❖ your school's OPE ID number,
  - ❖ that your school wishes to withdraw its appeal,
  - ❖ the fiscal year to which the appeal applies,

AND

- ❖ the type of appeal that is being withdrawn (erroneous data, improper loan servicing, and/or mitigating circumstances).

- ❖ The letter should be signed by your school's President/CEO/ Owner, followed by a signature block providing the signer's name and job title. (See sample letter **Withdrawing an FY 19\_ \_ Appeal** on the next page.)
- ❖ Simultaneously, send a courtesy copy (cc) of the letter to the involved guaranty agencies and/or Direct Loan servicer. (This is needed only when withdrawing an erroneous data appeal and/or an improper loan servicing appeal.)

**If sent by commercial overnight mail/courier delivery, send your school's appeal withdrawal to:**

The Department accepts deliveries from commercial couriers and/or hand deliveries on Monday through Friday, 8:00 a.m. to 4:30 p.m. (Eastern Time).

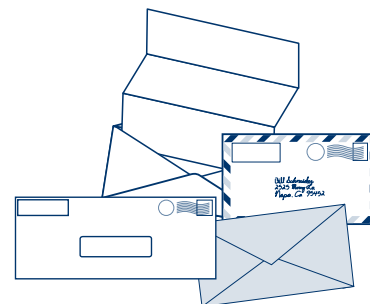


U.S. Department of Education  
Default Management Division  
ATTN: Appeal Withdrawals  
ROB-3, Room 5125  
7th and D Streets, SW  
Washington, DC 20202

For entry into the building, call  
202/708-6048

**If sent by U.S. Postal Service, send your school's appeal withdrawal to:**

U.S. Department of Education  
Default Management Division  
ATTN: Appeal Withdrawals  
ROB-3, Room 5125  
600 Independence Avenue, SW  
Washington, DC 20202-5353



The Department recommends sending all correspondence return receipt requested.



# Our Town A&M University

1212 Tiger Lane  
Any Town, Any State 00000-0000  
(000) 000-0000

December 5, 1997

U.S. Department of Education  
Default Management Division  
ATTN: Appeal Withdrawal  
ROB-3, Room 5125  
600 Independence Avenue, SW  
Washington, DC 20202-5353

## Sample Letter

**Subject: Withdrawing an FY 19\_\_ Appeal**

To Whom It May Concern:

Our Town A&M University, OPE ID 001100, wishes to withdraw its FY 19\_\_ appeal on the basis of [choose erroneous data, improper loan servicing, and/or exceptional mitigating circumstances].

Thank you for your consideration.

Sincerely,

*Rain E. Forrest*

Rain E. Forrest, President  
Our Town A&M University

cc: State Guaranty Agency

Direct Loan Servicer

(Note: A courtesy copy is needed only when withdrawing an erroneous data appeal and/or an improper loan servicing appeal.)

